

Quebec specialist taking government to court

When obstetrician-gynecologist Deborah Robertson decided to pursue training in advanced surgery in Toronto, she never dreamed she might be leaving her home province of Quebec for good.

"I love working in Quebec," says Robertson. "But for me, Bill 37 has been quite discouraging: It's forced me to change my plans."

Bill 37, adopted by the Quebec legislature on June 13, imposed a wage settlement and working conditions on medical specialists until 2010.

On Sept. 12, the Quebec Federation of Medical Specialists announced it will take the Charest government to court to contest the law's validity under the Quebec and Canadian charters of rights.

Under the imposed contract, Quebec's 8000 medical specialists receive a 2% wage increase in each of 4 years, leaving them on the bottom rung of the Canadian specialists' salary scale. The average gross annual income for a specialist in Quebec is \$233 000 — \$100 000 less than the national average.

The specialists' federation says the monetary package is disappointing, but it's what the federation calls the "extraordinary and punishing" nature of the decree that has pushed it to challenge the law's constitutionality.

"It is an abuse of power and a breach of doctors' rights to freedom of association and freedom of expression," says Dr. Yves Dugré, the federation's president.

Bill 37 penalizes Quebec specialists for failing to accept a \$593-million global offer in early June. The imposed contract cut \$125 million from that offer and docked a further \$50 million from the deal in fines and penalties. There is also a threat of further penalties should specialists balk or do anything to protest against their working conditions or wages. These penalties include not remunerating specialists for the time during which they contravened the act, plus a fine of double what they would have been paid, up to 20% of their total pay.

"We are handcuffed," says Dugré.

The law imposes heavy fines for any kind of "concerted action," which the federation's legal expert, Sylvain Bellevance, interprets as anything from modifying work practices to quitting or accepting a position in another province.

"You're not allowed to resign," Bellevance says. "It's absurd. A doctor and his wife decide to go practise in Ontario — they can't. There is no limit to this law."

CMA's general council unanimously passed (with one abstention) a resolution in August, urging the association and its divisions to "staunchly oppose any form of coercive legislation in regard to the negotiation of working conditions and compensation of physicians."

Quebec Health Minister Philippe Couillard — a retired neurosurgeon — says the specialists' interpretation of Bill 37 is "grossly exaggerated."

"We want to prevent any mass desertion from our hospitals," Couillard says. "But there's nothing in the law that prevents people from discussing it." He called the legal challenge "unfortunate," suggesting it could stand in the way of productive talks between the government and Quebec doctors.

Dugré contends Bill 37 has deepened a climate of resentment among Quebec doctors, who are considering pulling up stakes in ever greater numbers.

A survey conducted by Leger Marketing for the Quebec Medical Association in August shows that 23% of physician respondents are considering leaving the province in the next 5 years. That figure climbed to 29% among medical specialists, and 39% among young doctors (those who have been practising 10 years or less).

Almost all (94%) of the doctors say Bill 37 is fully or partly responsible for hurting morale and motivating them to look elsewhere for work.

Even among family doctors — who accepted a final offer from the government in June and thus are exempt from the special law — frustration is growing. In the same survey, 88% expressed dissatisfaction with their salary level. Like Quebec specialists, their wages are the lowest among their peers across Canada.

The Quebec government has deferred until 2008 a promise made 3 years ago to close the gap in salaries

between Quebec doctors and those in the rest of Canada. The specialists' group is also challenging that delay. It has filed a complaint with Quebec's Arbitration Council, to oblige the government to observe its 2003 commitment to reach wage parity, or to pay damages and interest for failing to do so.



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Quebec Health Minister Dr. Philippe Couillard says the door is still open to discussing wage parity.

For his part, Health Minister Couillard says the door is still open to continue talks toward wage parity. "It's not because the government doesn't value their work that doctors are paid less in Quebec," says Couillard. "The question is where will the money come from? Are we going to cut home care to give more money to physicians?"

Couillard has not indicated any willingness to rescind Bill 37 — and specialists say that reluctance to rethink the government's position is bound to lead to a worsening physician shortage.

Until Bill 37 is "off the table," Robertson says that she's staying put right where she is, in Toronto. — Loreen Pindera, Montréal

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