

FOR THE RECORD

Claim and counterclaim

Canadian Medical Association past president Dr. Brian Day and other owners of British Columbia private medical clinics have launched a Canadian Charter of Rights and Freedoms challenge against the provincial government's prohibition against charging fees for essential services. Essentially, the suit asks the BC Supreme Court to apply the principles implicit within the Supreme Court of Canada's landmark 2005 Chaoulli decision (*Chaoulli and Zeliotis v. A.G. Quebec et al.*) that the province of Quebec's ban on private health insurance for medically necessary services violated provincial human rights law.

Day's Cambie Surgeries Corporation, 4 other private firms and the Canadian Independent Medical Clinics Association argue in their writ of summons (www.healthcoalition.ca/CIMCA_writ.pdf) that patients are entitled to expedited medical treatment at the more than 50 independent surgical facilities in BC, and that restrictions imposed by the province's Medicare Protection Act violate the section 7 Charter right to life, liberty and security of the person, as well as the section 15 right to equality. The suit also seeks unspecified general damages.

The counterclaim from the province's health minister, attorney-general and Medical Services Commission argues that "there is no freestanding constitutional right to health care" so the Charter is essentially inapplicable, even in cases where patients had long waits to obtain treatment (www.healthcoalition.ca/Defence-BCgov.pdf). It also asserts that private clinics have billed patients directly for insured services in violation of the public medical plan and the Canada Health Act. The "extra billing" places the province at serious risk of financial penalties imposed by the federal government for such violations, the counterclaim states. The clinics have "intended to cause economic loss to the Province, or been wilfully blind or reckless with respect to whether such loss would occur."

To that end, the province also sought an injunction that would allow its inspectors to enter Cambie offices

Incidentalomas

A lack of regulation has allowed some private medical clinics to flog medical imaging (magnetic resonance imaging, computed tomography and positron emission tomography) tests and screening procedures that put some Canadians at unnecessary risk and ultimately increase the workload for the public system, according to a Canadian Centre for Policy Alternatives study.

Unjustified screening, such as heart, lung and full-body scans of asymptomatic people can lead to false positive results and such consequences as "cascading procedures, unnecessary patient anxiety, patient harm from radiation, as well as the potential harm to community health systems," states the report, *What's in a Scan: How Well Are Consumers Informed About the Benefits and Harms Related to Screening Technology (CT and PET Scans) in Canada?*

"We have found no evidence that national, provincial, or professional regulatory bodies have effective policies to protect Canadians from harms arising from such screening, such as increased medical investigations of false positives, increased anxiety and 'cancer scares,' and cumulative exposure to ionizing radiation from repeat testing," stated authors Alan Cassels, University of Victoria health policy analyst; Wendy Armstrong, Consumers' Association of Alberta policy researcher; and Jaclyn van Wiltenburg, University of Victoria School of Health Information Science research coordinator, in the study (www.policyalternatives.ca/~ASSETS/DOCUMENT/National_Office_Pubs/2009/Whats_in_a_Scan.pdf).

"Provincial governments must establish meaningful oversight over the marketing and use of these procedures, given that voluntary, professional oversight is ineffective," the authors added. — Wayne Kondro, *CMAJ*



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and inspect records for evidence of billing for insured services. — Wayne Kondro, *CMAJ*

Wait time reductions

Canadian hospitals have made significant strides in shortening wait times and improving patient flow, according to a report from the Association of Canadian Academic Healthcare Organizations.

Those strides have been achieved through better integrating family physicians and specialists, better disease screening, reducing emergency room visits and hospital readmissions, improving ambulance offload times, moving pa-

tients through emergency departments quicker, reducing time required to complete urgent consults, reducing paperwork, and improving patient and family participation, says the report, *"Wait" Watchers III: Order & Speed ... Improving Access to Care Through Innovations in Patient Flow*, released Mar. 26.

Glenn Brimacombe, the association's president and chief executive officer, said in an email to *CMAJ* that this demonstrates "the power of local innovations in improving timely access to care often within the existing resources of the organization." — Roger Collier, *CMAJ*

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