

Medicare trial postponed

British Columbia's top court has postponed a constitutional challenge that may decide the future of Medicare in Canada. Previously set for Sept. 8 this year, the trial will test whether restrictions on private health care violate Canadians' charter rights. At the request of the plaintiffs' legal team, the BC Supreme Court has pushed the trial forward six months to Mar. 2, 2015.

"There was a desire to try and settle some items by negotiation," key plaintiff and private clinic owner Dr. Brian Day told *CMAJ* by email. "The volume of witnesses (over 100) was burdensome and more time was needed by the lawyers."

Day launched the challenge against the BC government in 2009, at the same time provincial auditors were investigating billing practices at his Vancouver clinic, Cambie Surgery Centre. The audit uncovered more than 200 cases of extra billing and double-billing in a 30-day period.

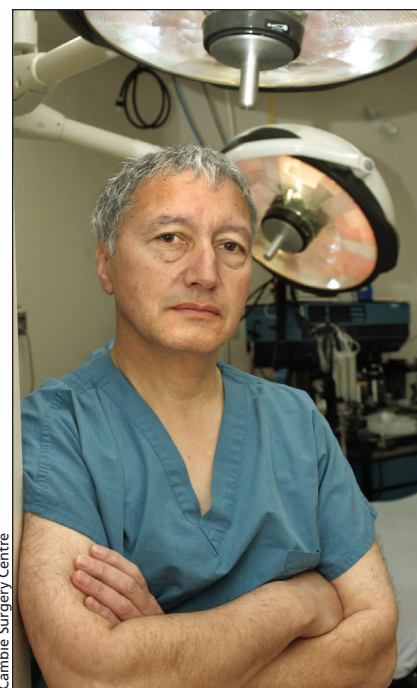
Day argues in his suit that laws prohibiting such practices — thereby restricting patient access to private care — violate the charter rights of Canadians to "life, liberty and security of the person." Interveners have said it's the biggest threat to Medicare of this generation, and likely headed to the Supreme Court of Canada.

Now it's uncertain that there will be a trial.

Day's legal team has indicated they will be "undertaking the negotiations seriously to reach a resolution to part or all of the matters of the case, with the expectation that they won't be back in court," according to the BC Health Coalition, an intervener in the case.

But asked to confirm the statement, Day said that "we have agreed to enter discussions with government without any pre-set conditions on either side."

Day said he's seeking an outcome "in keeping with [Canadian Medical Association] policy," which affirms that patients must have recourse to a "safety valve" if they are unable to get timely access to care in the public system. Day was president of the association for the 2007/08 term.



Cambie Surgery Centre

Private clinic owner Dr. Brian Day has put off his legal showdown with the British Columbia government over extra billing until March 2015.

BC Health Coalition Co-chair Rick Turner welcomed the possibility of resolution out of court in an Aug. 26 press release. "The case has cost far too much time and taxpayer money already."

Interveners also called on the BC government to ensure that any resolution protects equitable access to care for patients.

"As of yet, we have not heard Dr. Day make a commitment to actually stop unlawfully billing patients," Dr. Monika Dutt, chair of Canadian Doctors for Medicare, stated in the release.

According to Day, "any changes in our practices will await the outcome of [negotiations]. The trial date remains set for March." — Lauren Vogel, *CMAJ*

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