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## **Judge to decide if Health Act being violated:** **Federal government accused of failing to stop private clinics** **By Janice Tibbetts**

A judge is set to decide whether the federal government is violating the Canada Health Act through its loose monitoring of the health system and its failure to stem a dramatic growth in for-profit, private care.

A coalition of social groups wants the Federal Court to order the government to take more responsibility in enforcing the five bedrock principles of medicare by withholding money from provinces that don't live up to the terms.

A ruling in the court case is expected within days, say public health advocates.

"There's a law and the minister of health is not above the law," said Michael McBane, co-ordinator of the Canadian Health Coalition.

"We're looking for a shot across the bow from a federal judge saying, 'look, you have duties and you better start taking them seriously'."

In the last week alone, there have been several examples across the country of increased privatization.

In Montreal, three doctors announced they are opting out of the public system and opening the province's first emergency medical clinic. A private clinic that specializes in laser eye surgery also said it would start offering cataract operations at up to \$2,500 per eye.

Mr. McBane said he was disappointed that Health Minister Ujjal Dosanjh, who denounced the "tide of privatization" in Canada when he assumed his new portfolio two months ago, did not emphasize the point at a health-care meeting this week with provincial premiers.

The major thrust of the lawsuit is that the federal government does not live up to a Canada Health Act requirement that it report annually to Parliament about whether provinces are following the act.

The challenge was launched two years ago by the Canadian Union of Public Employees, the Council of Canadians, the Canadian Health Coalition, the Communications, Energy and Paperworkers Union and the Canadian Federation of Nurses.

The advocates of public care rely heavily on a 2002 report from Auditor General Sheila Fraser, who blasted the government for "a non-intrusive approach" to administering the Canada Health Act, and even failing to ensure it has the information needed to determine whether provinces are complying with the law.

The Justice Department, in a submission filed in the Federal Court, argued that administration of the Canada Health Act should be left to political decision-makers rather than legal intervention.

"The applicants are asking this court to venture into the realm of political decision-making, an area it has steadfastly and for sound reason of public policy, refused to tread," said the federal factum in the case.

The government also noted that the Canada Health Act does not preclude private health facilities.

But the instigators of the lawsuit counter that private facilities such as MRI clinics do, in fact, violate the act because they permit people to pay money for quick diagnostic services, and then effectively queue jump into the public system to seek medical treatment.

Although the Canada Health Act empowers the federal government to withhold funding to provinces that violate its principles, no levies have been imposed for years.