

Senior files lawsuit against province over health clinic

Con Duemler argues approval of Calgary facility contravenes his right to equal treatment

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By Larry Johnsrude

A 74-year-old seniors' activist is going to court to try to shut down a private, for-profit Calgary medical clinic approved last month by the province for orthopedic surgery for Workers' Compensation Board claimants and other uninsured patients.

In a case that could have implications for Alberta's experiment with private medicine, Con Duemler argues Health Minister Gary Mar's approval of the surgical clinic was "patently unreasonable" and contravenes his right to equal treatment under the Charter of Rights.

Documents filed in Court of Queen's Bench last week ask for a judicial review of the minister's order, which allows Network Health Inc. to perform surgeries requiring overnight stays of two to five days. Until this time, private clinics were allowed to do day surgery but any procedures requiring overnight stays had to be performed in public hospitals.

Only WCB claimants and others not covered by the provincial medicare system are eligible for treatment at the Calgary facility.

Duemler, who suffers from back and hip problems, said Tuesday he has been trying, without success, for two months to get an appointment with a specialist. He doesn't know when he will get surgery. He contends that if he was a WCB claimant, he would likely get surgery much sooner.

"The question is whether someone going through the WCB should get preferential treatment, or whether I should have the same access to the health-care system as everyone else," said Duemler, a member of the Alberta Council on Aging and an opponent of private, for-profit health clinics.

Alberta Health hasn't filed a response to the court action. A department spokesman said he couldn't comment because it is before the courts.

A hearing has been set for Oct. 22 but will likely be adjourned until the new year.

Network Health Inc. was given the green light last month to operate a 37-bed orthopedic surgery clinic in Calgary's former Grace Hospital, under the name Health Resource Centre. The buyer of Edmonton's former Charles Camshell Hospital is hoping to sell the vacant facility to Network Health to operate a private surgical clinic here.

The Calgary clinic will provide hip, back and leg surgery for people who are outside the public health system, including WCB claimants, RCMP and Armed Forces personnel.

Albertans now covered by the provincial health system cannot get service at the clinic but instead have to wait for surgery at public hospitals.

The Canada Health Act allows WCB claimants and others not insured by provincial medicare to pay for services at public hospitals or private clinics.

Those patients can already jump the queues to get diagnostic services, such as MRIs, and rehabilitative treatment, such as physiotherapy.

Duemler's lawyer, Cameron Prowse, said the province has taken that practice a step too far by letting uninsured people get in for surgery sooner than people who fall under Alberta medicare.

"They're allowing people who would normally be on the same waiting list as my client being able to vault into a position where they can have their surgery perhaps months earlier."