

Backgrounder

Cambie Surgeries Corporation et al v. Attorney General of B.C. et al



The Issue

Brian Day, CEO of Cambie Surgeries Corporation is challenging the Medicare Protection Act of British Columbia under the Canadian Charter of Rights and Freedoms; alleging that it denies the individual right to protect one's body (Sections 7 & 15). Although the case was first brought by Brian Day in 2006, the trial began in 2016, after some procedural delays it resumes in court on April 9.

- This case is about Profit. Profit for doctors, profit for private clinics and profit for the insurance companies.
- This case seeks eliminate protections on public health care and instead overturn the ban on doctors charging extra fees for publicly insured services.
- This case strikes at the heart of the Canada Health Act and the principles that ensure health care is based on medical need and not on the ability to pay.
- This case threatens all of us, not just the citizens of British Columbia. Currently, the case is against the Attorney General of British Columbia and challenges the BC Medicare Protection Act specifically. These provisions in BC exist in order to conform to the Canada Health Act and, therefore, we expect the case to end up being heard at the Supreme Court of Canada.

Wait Times

- This is not a solution to the problem of wait times. Day and his lawyers will say this case is about limits on our access to health care because of wait times, but he will produce no evidence that privatized U.S. style care fees will improve wait times. Rather, the plaintiffs will assert that their right to purchase private care has been denied.
- If the health care system is opened up to private insurance and extra billing, wait times for the vast majority of people in the public system will not be reduced. Rather, those with more money and access to more insurance will get the fastest care.
- We need real solutions that benefit everyone, not just those with the deepest pockets.

Right to Private Care

- The case is not as simple as allowing people with money to seek private care. The right to opt out of the public system already exists for everyone.

- Day wants to change the system so that tax dollars supplement the payment of user fees for faster service. That's called extra billing and it's not fair.
- Day also wants to change the system to create a market for private insurance. Because he wants extra billing allowed, private insurance will never pay the full cost of services, just the additional fees for faster service and that's not fair.

Two-Tiered Health Care

- International evidence shows that, except for the rich, private clinics increase wait-times overall because scarce health care professionals cannot be in two places at once.
- Private clinics cherry-pick the least complicated and least risky cases for quick turn around time, maximum volume and lowest cost.
- Wait times for those in the public system increase because there is a financial incentive for doctors to focus on the patients who pay higher fees.
- Built-in financial incentive to create artificial wait-times in the public system to enable doctors to charge additional fees for faster care.

For further reading:

Reducing surgical wait times – The case for public innovation and provincial leadership (Andrew Longhurst, Marcy Cohen and Dr. Margaret McGregor for CCPA, 2016)
https://www.policyalternatives.ca/sites/default/files/uploads/publications/BC%20Office/2016/04/ccpa-bc-ReducingSurgicalWaitTimes_summary.pdf

Cambie Corp. Goes to Court (Colleen Fuller for Canadian Centre for Policy Alternatives, 2015)
<https://www.policyalternatives.ca/publications/reports/cambie-corp-goes-court>

Myth: A parallel private system would reduce waiting times in the public system (Canadian Foundation for Healthcare Improvement, 2005) <http://www.cfhi-fcass.ca/SearchResultsNews/05-03-01/5bda3483-f97b-4616-bfe7-d55d0d66b9a0.aspx#vii>

Private Clinics and the Threat to Public Medicare in Canada (Ontario Health Coalition, June 2017)
<http://www.ontariohealthcoalition.ca/index.php/private-clinics-the-threat-to-public-medicare-in-canada-results-of-surveys-with-private-clinics-and-patients/>