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All Canadians should be able to buy private health insurance

John Carpay

“Access to a waiting list is not access to health care.” These words, from the Supreme Court of Canada decision in *Chaoulli v. Quebec*, apply very personally to Richard Cross and Darcy Allen, who have launched court challenges to the Alberta government’s monopoly over health care.

Dr. Allen was forced to stop practising dentistry due to debilitating back pain. What began in 2007 as a seemingly minor hockey injury gradually turned his life into a nightmare of around-the-clock pain. Normal tasks, like shovelling snow or tying shoelaces, became impossible. On one occasion, Dr. Allen watched helplessly as his one-year-old daughter, while crawling on a bed, lost her balance and fell off, and he could not move to catch her. All he could do was lie on his back in a futile attempt to ease the pain.

He finally received a referral for surgery in 2009, but no surgery could be performed until September, 2010 – a date later pushed back to June, 2011.

Unable to work, unable to enjoy life, rejecting his state of forced unemployment and unwilling to face another 18 months of severe and continuous pain, Dr. Allen paid \$77,503 out of pocket for back surgery in

Montana in December, 2009. It significantly reduced his pain and started his slow journey back to good health.

Businessman Richard Cross faced a similar challenge. After living with severe and continuous pain for years, he paid \$24,236 for back surgery in Arizona. Although the benefits were dramatic, Alberta’s Out-of-Country Health Services Appeal Panel denied his reimbursement request. The panel said Mr. Cross should have spent an indeterminate number of years in severe pain, without surgery, calling this “a conservative approach to treatment.”

Like Dr. Allen and Mr. Cross, thousands of Canadians suffer in pain while waiting for surgery or diagnosis. Some die. The *Chaoulli* judgment explained how this suffering is caused by the government’s “virtual monopoly” over health care. The Charter’s section 7 right to life, liberty and security of the person is violated by laws that force people to suffer on government waiting lists and deny the right to access health care outside the government’s monopoly.

In *Chaoulli*, the court rejected fear-mongering about two-tier health care. Studies and rankings by the World Health

Organization, the Organization for Economic Co-operation and Development, the Frontier Centre for Public Policy and other non-partisan authorities show that Canada’s health-care performance, despite higher spending per person, ranks behind that of European and Asian countries. France, Germany, Austria and Switzerland are examples of countries that allow private health care and private health insurance to co-exist with public health systems. They have no significant waiting lists.

When Tommy Douglas established Canada’s first government-run health program in Saskatchewan, he did not ban private health care. A recent Ipsos Reid poll found that 76 per cent of Canadians support the right to buy private health insurance for all forms of medically necessary treatment, including cancer care and heart surgery. Extending the *Chaoulli* judgment to Alberta would push Canada toward adopting the superior policies of Asia and Europe. Extending it across the country would secure the right to life, liberty and security of the person for all Canadians.

John Carpay is president of the Justice Centre for Constitutional Freedoms and represents Darcy Allen and Richard Cross.