

Group seeks end to health-care 'monopoly' Alberta private insurance ban faces challenge

By Bill Graveland, The Canadian Press

Alberta's ban on private insurance for medically necessary services is being challenged by a group that says the law ensures a "virtual monopoly" for the government.

The Justice Centre for Constitutional Freedoms is supporting two people who say they were forced to pay out of pocket to get the health care they required in the United States because they couldn't get help in a timely fashion in Alberta's public system.

Dr. Darcy Allen and Richard Cross have filed separate applications in Court of Queen's Bench that question whether the law is constitutional.

"We're saying the current model forces people to suffer in pain on waiting lists and sometimes risk death," lawyer and justice centre founder John Carpay said Tuesday.

"The Supreme Court of Canada recognized that there are people who die on waiting lists, which is why it violates the right to life as well as liberty and security of the person," said Carpay, who is representing the two complainants.

"We're lagging behind other countries like France, Germany, Austria and Switzerland that allow for private health care to coexist

alongside the public system and do not have waiting lists."

Carpay wants a 2005 Supreme Court of Canada decision expanded to Alberta. That decision struck down a Quebec law that banned private insurance for medically necessary services.

The case involved Quebec doctor Jacques Chaoulli and his patient George Zeliotis, who argued that the ban on buying private insurance for health care infringed on the Charter of Rights and Freedoms as well as on the Quebec Charter of Rights.

Zeliotis argued his year-long wait for hip replacement in 1997 violated his rights to life, liberty and security as defined under both charters.

"Basically the Supreme Court of Canada has given provincial governments two choices: either you somehow figure out a way to get rid of waiting lists, or, if you can't do that, you have to allow people the right to access health care outside of the government's monopoly system," Carpay said.

Allen was forced to give up his dental practice in Okotoks, Alta., in 2009 due to extreme, debilitating and continuous back pain. He

eventually paid \$77,503 out of pocket for back surgery in Montana.

He said what started in 2007 as a seemingly minor injury from playing hockey turned into around-the-clock pain that made normal tasks such as shovelling snow or tying shoelaces impossible. Allen finally received a referral for surgery in 2009, but no operation could be performed until September 2010. Later, his anticipated surgery date was pushed back to June 2011.

"Trying to get in to see a surgeon can drag itself out for several years before they say, 'Yes, now you're a candidate for surgery.' I couldn't wait any longer," said Allen, who is now teaching in Saskatchewan.

The other complainant is Cross, a small businessman from Calgary, who lived in a state of severe and continuous pain from 2006 until 2010 when he received back surgery in Arizona.

His request to have the \$24,236 cost reimbursed to him was denied by Alberta's out-of-country health services appeal panel, which ruled the surgery he had was available in Canada.