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## *Taking Ontario's health monopoly to court*

**John Carpay**

Ontario's health care monopoly almost killed Lindsay McCreith. After suffering a seizure in January, 2006, the 66-year-old Newmarket resident was told he had a brain tumour. But he would have to wait four-and-a-half months to obtain an MRI to rule out the possibility that it was cancerous. Unwilling to risk the progression of what might be cancer, Mr. McCreith obtained an MRI in Buffalo, which revealed the tumour was malignant. Even with this diagnosis in hand, the Ontario system still refused to provide timely treatment, so Mr. McCreith had surgery in Buffalo to remove the cancerous brain tumour in March, 2006.

In Ontario, Mr. McCreith would have waited eight months for surgery, according to his family doctor. Eight months is enough time for a cancer to worsen, spread and progress to an irreversible stage. Had Mr. McCreith not paid US\$27,600 for immediate medical care, he might be dead today.

Sadly, Mr. McCreith's story is not unique. Every day, thousands of Canadians suffer in pain while waiting weeks or months for medical treatment. For some people, the pain is physical. For others, it's the mental anguish of not knowing whether they have cancer, or how far it may spread before they obtain treatment. In addition to the risk of death or of irreparable harm to one's health, waiting for surgery prevents people from working, thereby causing financial damage to Canadians individually and collectively.

In its Chaoulli decision in 2005, the

Supreme court of Canada ruled that banning the purchase of private health insurance for essential services effectively granted the government a "virtual monopoly" over health care. With the exception of the very wealthy, who can afford the full cost of medical services without insurance, most Canadians must rely on the government's health care monopoly and its waiting lists. In Chaoulli, the court concluded that Canadians on waiting lists endure physical and psychological suffering, and the real risk of death, which violates our Charter rights to life and security of the person.

The court was divided as to whether this violation can be legally justified. But a majority of the court ruled that a total ban on private health insurance is not necessary to preserve a good public health care system. Looking to admirable examples such as Germany, Australia and Sweden, which have

private health care coexisting alongside the public system, the court struck down Quebec's ban on private health insurance.

The Supreme Court's Chaoulli decision corresponds with the World Health Organization's ranking of Canada's public health system as an unimpressive 30th in the world, behind Switzerland, Japan and 26 other countries that permit private health care. The Fraser Institute notes that Canada's age-adjusted health spending as a percentage of GDP is the second highest in the world, yet our access to doctors and MRIs lags far behind that of other countries.

Lindsay McCreith finds it intolerable that Canadians can buy medical insurance for their pets, but not for themselves or their loved ones. Indeed, Canadians can legally spend their money on tobacco, alcohol, pornography and gambling, but not on medical insurance for better access to essential health services. So Mr. McCreith is launching a constitutional challenge to Ontario's Health Insurance Act and the Commitment to the Future of Medicare Act. In contravention of the Chaoulli decision and our Charter rights, legislation in Ontario (and other provinces) outlaws medical insurance for essential care outside the government-controlled system. Laws force doctors to limit their provision of core medical services to the confines of an inefficient monopoly. As a result, surgeons are often denied the facilities and resources they need to treat more patients, and thousands of Canadians are forced to suffer on waiting lists.

Ontario's Health Minister, George Smitherman, can ignore the Chaoulli decision and fight to sustain a monopoly that inflicts much suffering - - and sometimes death -- on patients. Or he can take a lesson from the Supreme Court of Canada, the World Health Organization and the 29 countries with better public health care than Canada. Hopefully he will choose the latter course, and recognize that Lindsay McCreith -- and everyone else -- should be free to access health care outside of the government's monopoly system.