

# Ontario Health Coalition

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## User fees threatened for patients across Canada if court challenge negotiations fail to uphold Medicare

Toronto – As Ontario's new Health Minister Dr. Eric Hoskins sits down with provincial and territorial Health Ministers for their fall meeting this week, experts and patient advocates hope that he'll carry a strong message. Across Canada advocates are calling on the B.C. Health Minister to hang tough on the Medicare court challenge which threatens open season on patient user fees for surgeries, diagnostics and other procedures.

The case was scheduled to begin on September 8, but lawyers for both Brian Day, owner of one of the largest private clinics in Canada, and the B.C. government asked the court for a delay in order to negotiate a settlement. Negotiations are now happening behind closed doors and the court date is delayed until March 2015.

Following a provincial audit in 2012 which revealed that Day was charging hundreds of thousands of dollars in unlawful user fees to patients, Day filed a Charter Challenge to nullify the laws that he was violating. His case aims to bring down the laws that protect single-tier Medicare and forbid clinics like his from extra-billing patients and charging user fees for care that currently must be provided without charge under the public health care system. The litigation has far-reaching implications for the entire country.

Day's clinics were first exposed by patients who complained they were unlawfully billed for medical procedures. The B.C. government responded by trying to audit the clinics. Day refused to let in auditors until forced by a court order, and even then the clinics did not fully comply with auditors. Auditors had access to only a portion of the clinics' billings and only one month's worth of data. Nevertheless, what they found was astonishing. In a period of about 30 days, patients were subject to almost half a million dollars in user charges. The five patients who brought the initial legal petition have had their trial delayed while Day's Charter Challenge to the laws upholding single-tier Medicare is heard. They are still waiting for redress.

"In order to protect patients, the B.C. government must hold private clinic owners and operators accountable when they break the laws prohibiting extra-billing and user fees," said lawyer Steven Shrybman, a partner at Sack Goldblatt Mitchell who is acting for the B.C. Health Coalition and Canadian Doctors for Medicare, intervenors in the court challenge. Shrybman is well-known for his successful Supreme Court challenge against Ontario's attempted sale of Hydro One and the recent election fraud cases in Federal Court. "Though the challenge was launched in British Columbia, it has the potential to bring two-tier care to Canadians across the country," he warned.

"Advocates of public health care from Ontario and across the country are calling on the B.C. government to take a tough stand in these negotiations. These are the laws that uphold Medicare and defend patients," said Dr. Ryan Meili, Vice-Chair of Canadian Doctors for Medicare. "A simple slap on the wrist encourages more violations in provinces from coast to coast."

The problem is already creeping into Ontario, according to Natalie Mehra, executive director of the Ontario Health Coalition, where the government is proposing to expand private clinics. "Patients are being confused by private clinic operators who are manipulating them into paying thousands of dollars for health care services that they have already paid for in their taxes," she warned. "The public should know that you cannot be charged by a doctor or private clinic operator for surgery, diagnostic tests or any other medically necessary hospital or physician service. Extra user fees charged to sick and elderly patients are unlawful and immoral and governments should be delivering that message."

Advocates warned that this court case should also raise alarm bells in Ontario's government about the dangers of private clinics. At risk is our public health system in which access to health care is based on need, not wealth.

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