WHAT LIGHT DOES POST-CHAOUULLI QUEBEC SHED ON THE CAMBIE TRIAL?

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A REFRESHER ON CHAOULLI VS. QUEBEC

CONTRACT OF INSURANCE AND SUBROGATION

Coverage under contract of insurance prohibited.

15. No person shall make or renew a contract of insurance or make a payment under a contract of insurance under which an insured service is furnished or under which all or part of the cost of such a service is paid to a resident or temporary resident of Quebec or to another person on his behalf.

Contracts prohibited.

11. (1) No one shall make or renew, or make a payment under a contract under which
(a) a resident is to be provided with or to be reimbursed for the cost of any hospital service that is one of the insured services;
(b) payment is conditional upon the hospitalization of a resident, or
(c) payment is dependent upon the length of time the resident is a patient in a facility maintained by an institution contemplated in section 2.
The general feeling in 2004 was that there wasn’t cause for alarm. The scientific evidence and common sense would prevail.

But on June 9th 2005 the Supreme Court concluded, at a majority of four against three, that the prohibition on private insurance violated Section 1 of the Quebec Charter of Human Rights and Freedoms.

Woups…
In ROC's academic circles, the feeling was a mix of relief (Phew! It's Quebec's charter only) and perplexity (But but we should have won, we were the good guys)

However, in Quebec a very interesting policy window opened... What the hell are we supposed to do now?
For a year, everything (and its opposite) was on the table

In the end, we got Bill 33 which:

1) legalized the sale of private insurance to cover Cataract / Knee / Hip surgeries by unenrolled physicians
2) set max wait times for those surgeries and created a monitoring system of the wait in the public system
3) allowed for the possibility of publicly paid surgeries in the private sector if the wait was too long
However, on the ground...

- The insurance market for those surgeries never appeared.
- Wait time monitoring was implemented and is ongoing but what is done with the data isn’t obvious.
- No patient ever used the option to be treated by an unenrolled physician because of too long a wait in the public system.

None of this is real.
Private investors got the message that the private-delivery health care market was worth investing.

Many family doctors decided to jump ship and un-enroll from the public system.

There was a generalized tendency for medical clinics to develop creative double-billing practices.
Unenrolled Specialist Physicians as a proportion of the total specialty workforce - Quebec 2020

- General Medicine
- Endocrinology
- ER Specialist
- Psychiatrists
- Hematology
- OB/GYN
- Radiologists
- Cardiologists
- ENT
- Anesthesiologists
- Pneumologists
- Gastroenterologist
- General surgeons
- Urologists
- Vascular surgeons
- Ophthalmologists
- Physical Med. and Readapt.
- Orthopedic Surgeons
- Plastic surgeons
- Dermatologists
Monthly occurrence of articles using the expression "frais accessoires" for medical services in Québec's four largest newspapers 1992-2019
LESSONS FOR CAMBIE FROM CHAOULLI

- A court ruling isn’t the end of the case (by a long shot)
- When a market develops, it is like toothpaste getting off the tube, mostly a one-way process
- The overall impact from the Cambie case ruling will be a mix of market forces (demand, supply, investment decisions) and post-ruling legislation over a long period of time
Those slides are available at:
www.pocosa.ca