

The private sale of drugs in public hospitals

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Governments are under increasing pressure to provide access to expensive new drugs. Canadian patients who want access to drugs that are not publicly insured are seeking to pay for these drugs within public hospitals, states an article in *CMAJ* (*Canadian Medical Association Journal*).

This analysis by Colleen M. Flood, Canada Research Chair in Health Law and Policy, University of Toronto and Lorian Hardcastle, University of Toronto, discusses the debate over whether this policy should change. It looks at the current legislation, policy implications, and a possible Charter challenge.

Every Canadian province has legislation limiting the private sector, which may affect a public hospital's ability to sell drugs.

Those against allowing private payment for drugs in public hospitals suggest this practice would constitute unequal treatment and that it might negatively impact the public system, either by taking clinicians' time away from public patients or by eroding political support for a high standard of care in the public system. Arguments in support of private payment for drugs are centered around safety, access, and liberty.

A patient may successfully claim that these safety concerns violated his or her right to life or security of the person, as set out in the Charter. Government may then have difficulty defending its policy due to a lack of evidence on the negative impact of public hospitals selling insured drugs.

"We conclude that governments should not allow access to uninsured drugs in public hospitals, due to the possible negative effects on the public system," write Lorian Hardcastle, and Colleen Flood.

Provided by Canadian Medical Association Journal

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