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Montreal

Stephen Smith · [CBC News](#) November 26, 2016



Opinion
 Éloïse Dupuis, 26, died from complications related to blood loss six days after giving birth to her first child by C-section. (Manon Boyer)


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Calls to reform Quebec's Civil Code are mounting in response to the death of Éloïse Dupuis, a 26-year-old Jehovah's Witness woman, six days after she gave birth in October.

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Dupuis's refusal of an emergency blood transfusion to treat a hemorrhage led her aunt, Manon Boyer, to call for changes to the law that would allow staff at Quebec hospitals to administer life-saving treatment in such circumstances.

Politics

Transfusions are prohibited under Jehovah's Witness doctrine, and all adherents are expected to sign a card declaring their refusal of blood in medical emergencies.

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Éloïse Dupuis required a blood transfusion after giving birth by C-section and died of a hemorrhage on Oct. 12. (Cassandra Zélézen/Facebook)

Indigenous

As is, the law upholds the right of adult Jehovah's Witnesses to refuse blood as long as their decision meets the standards of a free and informed refusal of treatment.

Boyer, however, believes it's time for Quebec society to debate whether such refusals should be tolerated when a life is at stake.

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"We can't let sectarian movements do whatever they want in our hospitals. It's just inconceivable," she said.

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CBC Investigates

Emergency situations

Dr. Antoine Payot, director of the ethics unit at Montreal's Sainte-Justine Hospital, says his clinical experience raises serious questions about the validity of refusals in emergency situations.

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Those doubts led Payot and his colleague, emergency pediatrician Dr. Guylaine Larose, to pen a recent opinion piece in Montreal's La Presse newspaper calling for the Civil Code's modification.

In an interview with CBC, the doctors said they want the law changed to allow medical practitioners faced with a life-or-death situation to provide life-saving treatment.



Dr. Guylaine Larose is a member of the ethics unit at CHU Sainte-Justine and former member of the Quebec Bar. She is one of two physicians to co-author an opinion piece to counter absolutist arguments they were hearing about the Dupuis case. (CHU Sainte-Justine)

"To not be able to treat someone even if we doubt that their consent or refusal was free and informed is very frustrating," Larose said.

Both doctors said they went public to counter the absolutist arguments they were hearing in media coverage that placed a patient's autonomy ahead of all other considerations.

"What upsets us is the claim that an adult is autonomous and has the right to either consent to or refuse treatment regardless of the consequences, and nobody wants to question that," said Larose, who studied law and was a member of the Quebec Bar before going into medicine.

- [Jehovah's Witnesses defend hospital visits that push for bloodless treatment](#)

Payot said emergency situations are "inherently complex" and seldom allow for the detailed elaboration and exchanges between the patient, doctors and the medical team that he says are critical to validating consent or refusal.



Dr. Antoine Payot, head of the clinical ethics unit at the CHU Sainte-Justine in Montreal, says 'that respecting free and informed consent means going through the correct process and doing it right,' and that patients often change their minds. (Radio-Canada)

"We're not questioning a patient's choice or the principle, just the way it happens. We believe that respecting free and informed consent means going through the correct process and doing it right."

"In our experience, doing it right takes time, and we often see patients change their mind."

Larose disputes the validity of the card refusing blood that Jehovah's Witness adherents carry, and she disagrees with a 1990 Ontario Court of Appeal ruling in favour of the card's legal value that continues to inform practice in hospitals around Canada.

In that case — known as *Malette vs. Shulman* — Dr. David Shulman was deemed to have violated the rights of an unconscious Jehovah's Witness accident victim, Georgette Malette, for having given her a blood transfusion despite the fact she was carrying such a card in her purse.

"That's one judgment, and it was in Ontario," Larose said.

'We often see patients change their mind.' - Dr. Antoine Payot, CHU Sainte-Justine

"Signing a card doesn't mean that when you find yourself in front of a doctor, you're going to confirm the decision you made when you signed it. So we can't take a signed card as the final word — we have to validate that," Payot said.

Both doctors emphasize the importance of autonomy and say they don't want to undermine it.

"The kind of permission would have to be defined very narrowly because nobody wants to limit the autonomy of adults in a more general way," Larose said.

"But in certain exceptional emergency situations, it's probably a good thing to limit the right."

Larose said she would welcome a public debate on the issue.

"We want the courts, the politicians, the public to reflect on this," Larose said.

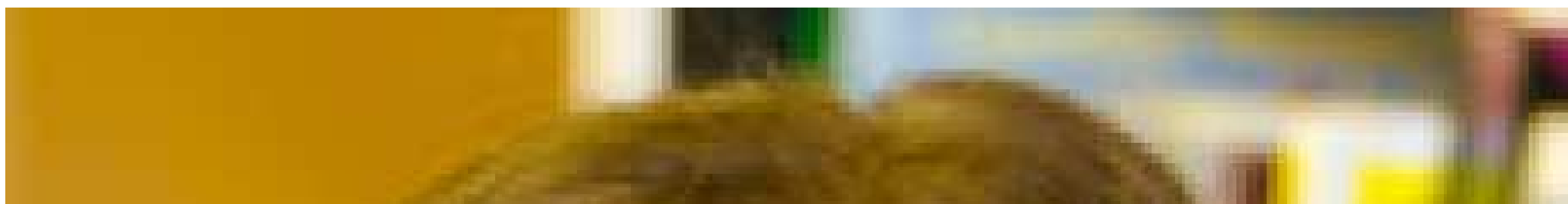
- [Death of 2nd Jehovah's Witness after childbirth under investigation in Quebec](#)

'Doctors know best'

McGill University law professor Shauna Van Praagh told CBC that changing the Civil Code is extremely complicated and even "properly difficult to imagine."

That said, there's always room for interpretation.

"The code gives us the rules, but of course, there are going to be disputes that require interpretation," she said.





McGill University law professor Shauna Van Praagh. (McGill University)

Van Praagh worries that even a "narrowly defined" limitation of autonomy could have unintended consequences.

"Once you let go of autonomy, then you don't have as much pressure to make sure people have full information," she said.

"It's very easy to slide into 'doctors know best' and why do they have to tell you anything, because they know what's right for you."

Van Praagh said she appreciates the difficulties doctors face when confronted by a refusal of treatment and their reasons for wanting the law to line up with their commitment to saving life.

When she discusses the Malette vs. Shulman case with her students, she says, most agree with Shulman's decision to give Malette blood and save her life and say they would do so regardless of the legal consequences.

'It's very easy to slide into 'doctors know best' and why do they have to tell you anything, because they know what's right for you.' - McGill law professor Shauna Van Praagh

"But sometimes the law and practice don't necessarily line up and may go in different directions in the name of justice and doing the right thing," she said.

"The right thing from the doctors' perspective is to do everything to save a life, and the right thing in private law is to ensure that one's wishes about one's body are paramount."

"So, in general, that means you can't say to someone who's an adult and refuses treatment that, 'Oh, you might change your mind later.'"



Jehovah's Witness Mirlande Cadet, 46, also died from complications after childbirth in a Montreal hospital in October. (Isaac Cadet)

While it's possible that a patient might later thank a doctor for overruling their refusal of treatment, Van Praagh said there's little room for doubt if a patient is consistent in their refusal, even in an emergency situation.

"Doctors do it knowing the risk that the patient may turn around later and say, 'You acted against my very clear directions,' and they may be found to have violated the rights of the patient," she said.

Ultimately, she says, the Éloïse Dupuis case is "so tragic" that it could spark the kind of public discussion on the law and medical ethics that Boyer, Larose and Payot want.

"It should trigger this conversation within the [Jehovah's Witness] community, too."

The Canadian office of the Watchtower Bible and Tract Society, the legal entity representing the Jehovah's Witnesses, was contacted for comment by CBC but did not reply.

- [Jehovah's Witnesses incapable of free, informed refusal of blood, former adherent says](#)

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