

December 15, 2017

Ms. Ronnie Gavsie
President and CEO
Trillium Gift of Life Network
483 Bay Street
Toronto, ON M5G 2C9

Honourable Dr. Eric Hoskins
Minister of Health and Long-Term Care
10th Floor, Hepburn Block
80 Grosvenor Street
Toronto, ON M7A 2C4

RE: Amnesty International's concerns regarding the case of Delilah Saunders and discrimination in organ transplant policy in the Province of Ontario

Dear Minister Hoskins and Ms. Gavsie,

We are writing on behalf of Amnesty International supporters across Canada and around the world to urge you to reconsider provincial policies which are denying 26-year-old Inuk woman and human rights defender Delilah Saunders—who is in acute liver failure in a Toronto hospital—access to a life-saving liver transplant. We urge that she be immediately deemed eligible for a transplant, and that wider measures be taken on an urgent basis to ensure there is no unlawful discrimination in access to organ transplants in Ontario.

Ontario resident Delilah Saunders is a young Inuk human rights defender from Labrador whose work is so respected she received Amnesty International's highest and most prestigious global honour earlier this year, the Ambassador of Conscience Award. Delilah has overcome immense personal challenges and become a very prominent advocate for Indigenous rights in Canada. Following the killing of her sister Loretta in 2014, Delilah began advocating for the rights of missing and murdered Indigenous women and girls in Canada. She has also advocated for Indigenous health rights, including, in 2016, participating in a hunger strike to protest against the planned flooding of the Muskrat Falls reservoir in Labrador that would deny downstream Inuit communities the ability to safely continue their traditional diet and related cultural practices.

Delilah was hospitalized last weekend and diagnosed with acute liver failure, but was not deemed eligible to receive, or be waitlisted for, a life-saving liver transplant because she has not abstained from alcohol for the six month alcohol abstinence required under patient listing contraindication 6 of Ontario's Adult Referral and Listing Criteria for Liver Transplantation.

We are directing this request to you jointly because you both are obliged to uphold human rights in this context. The Trillium Gift of Life Network and the Ministry of Health have a shared responsibility to ensure that decisions about healthcare in the province of Ontario—in this case eligibility for and access to life-saving organ transplants—comply with Canada and Ontario’s obligations under international human rights law, including the *International Covenant on Civil and Political Rights (ICCPR)*,¹ *International Covenant on Economic, Social and Cultural Rights (ICESCR)*,² *Convention on the Elimination of All Forms of Racial Discrimination (CERD)*,³ *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*,⁴ and the *United Nations Declaration on the Rights of Indigenous Peoples*.⁵ In particular, states have an obligation to guarantee the right to the highest attainable standard of health of all individuals, free from discrimination. To deny individuals access to necessary and life-saving medical treatment purely on the grounds of their prior or current health status—including conditions resulting from the use of alcohol—is discriminatory.⁶

Canada has an obligation—fully extending to and binding on the provincial government—to respect and protect the right to health of people who use alcohol, irrespective of whether the use has been harmful or abusive. This includes ensuring they have access to all health-related information, goods and services related to prevention, harm-reduction and treatment of any health conditions that may result from the use of alcohol. States must also ensure, in general, that they have access to any necessary health care on a non-discriminatory basis that is responsive to their needs and circumstances. Denying access to such treatment based on unjustified restrictions or misconceptions about the use of alcohol would also contravene Canada’s obligations under international human rights law.⁷

¹ United Nations General Assembly, [International Covenant on Civil and Political Rights \(ICCPR\)](#), 16 December 1966, article 6.1.

² United Nations General Assembly, [International Covenant on Economic, Social and Cultural Rights](#), 16 December 1966, articles 2.2 and 12.

³ United Nations General Assembly, [Convention on the Elimination of All Forms of Racial Discrimination](#), 21 December 1965, article 5(e)(iv).

⁴ United Nations General Assembly, [Convention on the Elimination of All Forms of Discrimination Against Women](#), 18 December 1979, article 12.1.

⁵ United Nations General Assembly, [United Nations Declaration on the Rights of Indigenous Peoples](#), 13 September 2007, article 24.2.

⁶ Committee on Economic, Social and Cultural Rights, *General Comment No. 14*, 11 August 2000, UN Doc. [E/C.12/2000/4](#), para 18.

⁷ United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, 6 August 2010, UN Doc. [A/65/255](#), para 23.

Individuals denied transplants under contraindication 6 of Ontario's Adult Referral and Listing Criteria for Liver Transplantation are frequently in need of urgent medical treatment and cannot survive the six month alcohol abstinence requirement. An unjustified denial of access to treatment for a condition that poses a serious threat to life would also be inconsistent with Canada's obligation to protect the right to life.⁸

We urge that you take immediate steps to:

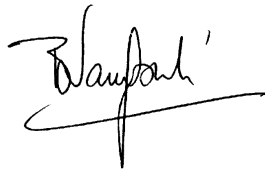
- Deem Delilah Saunders eligible for a living donor liver transplant.⁹
- Waitlist Delilah Saunders for a liver transplant from a deceased donor.¹⁰
- Ensure that no one else is denied access to organ transplants in Ontario for reasons that would be considered discriminatory under international human rights standards.
- Reconsider policies governing access to organ transplants in Ontario to ensure consistency with Ontario's international human rights obligations.

We would welcome the opportunity to meet with you to further discuss our concerns and recommendations. Thank you very much for your attention to this pressing human rights concern.

Sincerely,



Alex Neve
Secretary General
Amnesty International Canada
(English branch)



Béatrice Vaugrante
Directrice Générale
Amnistie internationale Canada francophone

cc: The Honourable Kathleen Wynne, Premier, Government of Ontario
The Honourable Dr. Jane Philpott, Minister of Indigenous Services, Government of Canada

⁸ ICCPR, *supra* note 1.

⁹ Part I of the *Trillium Gift of Life Network Act*.

¹⁰ Part II of the *Trillium Gift of Life Network Act*.