



F07-02-MS Mother Requests Hospital Records to Find Out How Son Died

The mother of a young man who died in hospital wanted to find out the cause of death and how long her son had had to wait in Emergency for treatment. The health authority in charge of the hospital said it couldn't give her any information because her son had indicated his next-of-kin was his common-law wife, but she had moved right after the death and neither the hospital nor the mother had been able to contact her to see if she would consent to the hospital releasing information about how and why the man had died.

The health authority suggested the mother approach the Coroner Service for information as an autopsy would probably have been done given that the son had died fewer than 24 hours after being admitted to hospital. However, the Coroner Service told her no autopsy had been performed. The mother then asked us to review the health authority's decision to deny her access to her son's information.

The health authority told us that they really wanted to help the mother obtain the information but felt their hands were tied by the Freedom of Information and Protection of Privacy Regulation, section 3 of which provides that the right to access or to consent to the release of information on behalf of a deceased individual may be exercised by the deceased's nearest relative or personal representative. As the deceased man had named his common-law wife as his next-of-kin, the health authority felt it had no choice but to refuse his mother access to the records.

We brought the health authority's attention to section 22(2)(a) of the *Freedom of Information and Protection of Privacy Act*. It provides that, in determining whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the public body must consider whether the disclosure is desirable for the purpose of subjecting the activities of a public body to public scrutiny. Here, where the quality of treatment of the deceased man was one of the mother's primary concerns, it was reasonable for the health authority to consider the applicability of section 22(2)(a).

The health authority decided to release the information and the mother felt she had at last obtained closure to a painful episode in her life.