OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
— for —
British Columbia

Order F10-41

VANCOUVER ISLAND HEALTH AUTHORITY

Jay Fedorak, Adjudicator

November 29, 2010

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Summary: A surgeon, who previously exercised hospital privileges with VIHA, requested a copy of a letter of complaint that a general practitioner had written about him to the chief of surgery. This letter initiated a review of some of the applicant's cases that led ultimately in the ending of his hospital privileges. VIHA withheld portions of the letter under s. 22(1) of FIPPA on the grounds that disclosure would constitute an unreasonable invasion of privacy of third parties. This information included details about the diagnosis and treatment of the applicant's patients. VIHA also claimed that s. 51 of the *Evidence Act* applied to a passage relating to information that was disclosed to a Medical Advisory Committee. Section 51 of the *Evidence Act* applies to the passage in question. Section 22 of FIPPA applies to some, but not all, of the information withheld. VIHA ordered to disclose information about the applicant's treatment and diagnosis of unnamed but potentially identifiable patients.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, s. 22; *Evidence Act*, s. 51.

Authorities Considered: B.C.: Order F06-11, [2006] B.C.I.P.C.D. No. 18; Order F10-10, [2010] B.C.I.P.C.D. No. 17; Order No. 325-1999, [1999] B.C.I.P.C.D. No. 38; Order 00-02, [2000] B.C.I.P.C.D. No. 2; Order F10-08 [2010] B.C.I.P.C.D. No. 12; Order 01-53 [2001] B.C.I.P.C.D. No. 56; Order 00-18 [2000] B.C.I.P.C.D. No. 21; Order F09-07 [2009] B.C.I.P.C.D. No 19; F06-15 [2006] B.C.I.P.C.D. No. 22; Order F10-21 [2010] B.C.I.P.C.D. 32; Order F05-34 [2005] B.C.I.P.C.D. No. 46; Order 01-07 [2001] B.C.I.P.C.D. No. 1.

1.0 INTRODUCTION

[1] This order arises from a request from a surgeon ("applicant"), who previously exercised hospital privileges with the Vancouver Island Health Authority ("VIHA"), for a copy of a letter of complaint that a general practitioner ("general practitioner") had written about him to the chief of surgery of VIHA. VIHA originally refused to provide him with a copy of the letter. The applicant made a complaint to the Office of the Information and Privacy Commissioner ("OIPC") concerning VIHA's failure to respond. During mediation, VIHA released the letter, withholding information under s. 22 of FIPPA. VIHA subsequently informed the applicant that it was also applying ss. 13 and 15 of FIPPA to the information withheld. Later, VIHA provided the applicant with a summary of the information withheld.

[2] Mediation failed to resolve the matter. When the applicant requested that the matter proceed to inquiry under Part 5 of FIPPA, VIHA asked, under s. 56, that the inquiry not proceed. This resulted in Decision F10-02[1], in which I denied VIHA's request, and the matter proceeded to an inquiry.

[3] As part of its initial submission, VIHA introduced the applicability of s. 51 of the *Evidence Act* to one of the passages that it had already withheld under s. 22. The policy of the OIPC is not to permit the raising of new exceptions at such a late stage. Nevertheless, as the issue of the application of the *Evidence Act* is an issue relating to the jurisdiction of this Office, I must consider it. As VIHA had not provided argument or evidence on the applicability of the *Evidence Act*, I invited the parties to make further submission on the issue after the inquiry had closed.

2.0 ISSUE

[4] The issues in this case are these:

1. Whether s. 22(1) of FIPPA requires VIHA to withhold the requested information.
2. Whether ss. 51(6) and (7) of the *Evidence Act* prohibit VIHA from disclosing certain information.

[5] Under s. 57(2) of FIPPA, the applicant has the burden of proving that release of third-party personal information would not be an unreasonable invasion of the third party's personal privacy. Section 57 is silent respecting whether provisions like s. 51 of the *Evidence Act* apply. Previous orders have said that in such cases it is in the interests of the parties to present argument and evidence in support of their positions.

[1] [2010] B.C.I.P.C.D. No. 19.

3.0 DISCUSSION

[6] **3.1 Record in Dispute**—The record at issue is a four-page letter of complaint concerning the applicant. It consists of brief overviews of the diagnosis and treatment of a sample of seven of the applicant's patients. The general practitioner has not directly identified any of the patients by name or personal identifier. The applicant believes that he can identify one of the patients based on the information that VIHA has already disclosed and has named that patient. I do not know whether the applicant is correct, because, as I have noted, the letter does not identify them directly.

[7] With respect to each sample patient, the general practitioner provides their symptoms, the treatment that the applicant employed and information about the condition of the patient after the treatment.

[8] **3.2 Harm to Personal Privacy**—The relevant provisions of s. 22 in this case are listed in the appendix to this Order.

[9] Numerous orders have considered the application of s. 22 and the principles for its application are well established.[2] I have applied those principles here without repeating them.

Whose personal information is it?

[10] The records consist almost entirely of the personal information of the applicant and third parties (including patients, their family members and the general practitioner). The applicant knows the identity of the general practitioner. There are no names or other personal identifiers that would reveal the identities of any of the other third parties directly, but it could be possible for the applicant or other medical staff to infer the identities of patients based on the details of their case. There are details in the letter that would identify the other third party, who is not a patient. As all of the third parties are identified or potentially identifiable, their information qualifies as personal information for the purpose of s. 22 of FIPPA.

[11] As none of the factors in s. 22(4) of FIPPA applies in this case, I will turn to s. 22(3) to determine whether disclosure would be presumed to be an unreasonable invasion of privacy.

Does information in the records constitute third-party medical history and/or diagnosis, condition, treatment or evaluation?

[12] VIHA argues that the undisclosed portions of the requested record contain third parties' personal information, specifically information relating to their

[2] See for example, Order 01-53, [2001] B.C.I.P.C.D. No. 56, and Order 00-18 [2000] B.C.I.P.C.D. No. 21.

medical history, diagnosis, condition and treatment.[3] VIHA submits that s. 22 applies to this information.[4] I can confirm that the information at issue is mostly the medical history of the seven patients, including their condition, diagnosis and treatment by the applicant and other physicians.

[13] The applicant attempts to distinguish the information at issue as being "surgical history" as opposed to "medical, psychiatric or psychological history". The applicant argues that s. 22(3)(a) can be read to exclude surgical history.[5] I do not find the applicant's argument persuasive. One of the purposes of FIPPA is to protect personal privacy. It provides that disclosure of medical, psychiatric or psychological history is presumed to be an unreasonable invasion of privacy. It seems to me obvious that information about surgical procedures that a patient has received generally falls under the broad rubric of "medical history". I find that the information about patients in this case falls with s. 22(3)(a) and disclosure is presumed to be an unreasonable invasion of privacy.

Is disclosure desirable for the purpose of subjecting the public body to public scrutiny?

[14] The applicant speculates that the public body might be withholding some of the information because it is attempting to avoid public scrutiny. He submits that there might be a connection between VIHA terminating his privileges as a surgeon and subsequently closing the surgical service in the hospital.[6]

[15] Section 22(2)(a) is a relevant circumstance in cases where the disclosure to the public of the personal information in the record is desirable for the purpose of holding the public body accountable.[7] It is significant that the applicant has already received a considerable amount of personal information in the record about himself and some of his patients that would be protected from disclosure to another applicant or the public in general. The applicant has not indicated how disclosing the rest of the information to him would hold the public body to public scrutiny. While it might be of considerable interest to him, there is no larger public interest at issue. Therefore, I do not consider it to be a relevant circumstance in this case.

Is disclosure relevant to a fair determination of the applicant's rights?

[16] The applicant submits that disclosure is relevant to a fair determination of his rights. He does not provide any argument in support of this position, other

[3] VIHA's initial submission, para. 19.
[4] VIHA's initial submission, paras. 21-27.
[5] Applicant's reply submission, para. 13.
[6] Applicant's initial submission, para. 20.
[7] See for example, Order F10-21 [2010] B.C.I.P.C.D. No. 32.

than to say that, "this is self-evident considering the history of attempts to obtain a copy of the letter".[8]

[17] In Order 01-07,[9] Commissioner Loukidelis set out the test for determining if personal information is relevant to a fair determination of the applicant's rights as follows:

> In Ontario Order P-651, [1994] O.I.P.C. No. 104, the equivalent of s. 22(2)(c) was held to apply only where *all* of the following circumstances exist:
>
> 1. The right in question must be a legal right drawn from the common law or a statute, as opposed to a non-legal right based only on moral or ethical grounds;
> 2. The right must be related to a proceeding which is either under way or is contemplated, not a proceeding that has already been completed;
> 3. The personal information sought by the applicant must have some bearing on, or significance for, determination of the right in question; and
> 4. The personal information must be necessary in order to prepare for the proceeding or to ensure a fair hearing.

[18] The applicant has not demonstrated that he has a legal right at issue in accordance with the test of Order 01-07. Even if his goal was to regain his hospital privileges (though he has not said it is), medical practitioners do not have a legal right to such privileges. They are granted at the discretion of the health authority. I do not see any other basis for the application of s. 22(2)(c). Therefore, I do not consider it to be a relevant circumstance in this case.

Was the information provided in confidence?

[19] The parties have provided no evidence that the personal information in the record in dispute was provided in confidence nor is their evidence of confidentiality on the face of the record. While it might be reasonable to conclude that the patients, who disclosed their information to the general practitioner, might have expected him to treat their information in confidence, VIHA has not provided evidence or argument before me on this point, other than the simple statement that medical information is by its very nature confidential.[10] In some cases, it is reasonable to conclude that the patients originally disclosed their information directly to the applicant at the time he was treating them. With respect to his own information, the general practitioner has not provided any indication that he was providing his information to the head of surgery in

[8] Applicant's initial submission, para. 21.
[9] [2001] B.C.I.P.C.D. No. 7, para. 31.
[10] VIHA's reply submission, para. 12.

confidence. Therefore, I do not consider it to be a relevant circumstance with respect to some of the information at issue. The record also contains information about medical diagnosis and treatment for some of the patients received from other physicians or surgeons. I consider s. 22(2)(f) to be a relevant consideration with respect to that information.

Applicant's awareness of personal information

[20] One consideration about the information in dispute is that most of the information about the patients relates to their treatment by the applicant. VIHA is correct to point out that Commissioner Loukidelis found in Order F05-34 that this does not mean that a doctor is "entitled to receive patient medical information simply because he was ... these patients' physician." He did go on to say, however, that this circumstance "would have a bearing on whether disclosure of this information would be an unreasonable invasion of third-party privacy".[11]

[21] The applicant is already aware of most of the personal information in the letter because he provided the treatment mentioned. In addition, the applicant had a meeting with the head of surgery of VIHA two weeks after the head of surgery received the letter from the general practitioner. The purpose of the meeting was to discuss the issues the letter identified. Three days later, the head of surgery sent a letter to the applicant summarizing the details of the discussions at the meeting. The letter from the head of surgery to the applicant includes details of some of the cases mentioned in the letter at issue.[12]

[22] VIHA is correct to point out, however, that this does not entitle the applicant to all personal information about his former patients. As Commissioner Loukidelis noted in Order F05-34:

> There remains third-party personal information ... that the applicant has not, to my knowledge already received and to which the factor of awareness therefore does not apply ... the applicant's status as a former physician of these patient does not in my view outweigh third-party privacy ...[13]

[23] The same principle applies in the present case. In my view, this would include information about their medical condition after they had ceased to be patients of the applicant, and any other personal information not related to the diagnoses and treatment he provided.

[24] In summary, some (but not all) of the information can be disclosed to him without revealing anything about the patients that is unknown to him. This consideration argues strongly in favour of disclosure of that information.

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[11] VIHA's initial submission, para. 24; Order F05-34, [2005] B.C.I.P.C.D. No. 46, para. 28.
[12] Applicant's initial submission, appendix 1.
[13] VIHA's initial submission, para. 25; Order F05-34, para. 70.

Other relevant circumstances

[25] I consider the context around the creation and use of the letter to be a relevant circumstance. This letter initiated a review of some of the applicant's cases that led ultimately in the ending of his hospital privileges. The complaints about how he had diagnosed and treated the patients mentioned in the letter were an integral part of that review. Therefore, it is clear that the information in the letter was used as part of a decision that had significant consequences for the applicant. Some of the information in the letter constitutes details of the applicant's work performance, in addition to comprising the medical history of his patients. This consideration argues in favour of disclosure of the information regarding his diagnosis and treatment of his patients.

Would disclosure be an unreasonable invasion of privacy?

[26] With respect to the applicant's own information, previous orders have held that it would only be in rare circumstances where disclosure to individuals of their own personal information would be an unreasonable invasion of a third party's personal privacy.[14] I see no circumstances in this case that would warrant withholding the applicant's own information from him. Therefore, I find that s. 22 does not apply to information about the applicant.

[27] With respect to the information about the patients, the key point with much of it is, as I have said above, that the applicant is already aware of it through participating in the diagnosis and treatment. I find that, even though it consists of the medical history, diagnosis and treatment of the patients, the disclosure of the personal information of the patients that he already knows would not be an unreasonable invasion of their personal privacy. Section 22(1) of FIPPA does not require VIHA to withhold this type of information.

[28] However, there is information in the records that is about the patients and their relatives that is not connected to the applicant and of which there is no evidence that the applicant is already aware. This includes information about their condition and treatment that they received either before they were referred to the applicant, or after they ceased to receive treatment from him. It also includes personal information about individuals who were not his patients. The applicant has not rebutted the presumption with respect to this information, and it does not constitute information about his work performance. I find that disclosure of this information would be an unreasonable invasion of the personal privacy of these third parties.

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[14] See for example Order F06-11, [2006] B.C.I.P.C.D. No. 18; Order F10-10, [2010] B.C.I.P.C.D. No. 17.

[29] As a result, I find that VIHA has applied s. 22(1) correctly to some information but not to other information. I have provided a copy of the records to VIHA marked to indicate my findings. I have highlighted in yellow for VIHA the third-party personal information it must continue to withhold under s. 22, so that the remainder may be disclosed.

[30] **3.3 Section 51 of the *Evidence Act*—**VIHA argues that s. 51(5) of the *Evidence Act* applies to information in one paragraph of the general practitioner's letter and that its disclosure is therefore prohibited under ss. 51(7) and (8) of that Act.

[31] The relevant provisions of s. 51 of the *Evidence Act* in this case are listed in the appendix attached to this Order.

[32] Several orders have considered the interpretation and application of s. 51 of the *Evidence Act*.[15] I take the same approach here without repetition.

Does section 51 of the Evidence Act apply?

[33] Section 51 of the *Evidence Act* includes a provision prohibiting disclosure of certain information that operates to oust FIPPA in relation to that information. Where FIPPA is ousted, the "right of access" in Part 2 of FIPPA is ousted, as is the Commissioner's jurisdiction to enforce it.

[34] VIHA submits that s. 51 of the *Evidence Act* applies to a passage in the general practitioner's letter. The withheld portion of the last redacted paragraph on page 3 of the letter that VIHA originally severed, under s. 22 of FIPPA, contains information that VIHA states is based on the findings of a review by the Hospital Quality Assurance Committee ("HQAC").[16] The general practitioner deposes:

> The letter detailed cases indicating [the applicant's] treatment of several patients. My knowledge of the last incident I discussed in the letter ... came from the results of a review conducted by the ... Hospital Quality Assurance Committee.[17]

[35] The general practitioner deposes that he is a member of the HQAC. VIHA explains that the HQAC is a committee that the board of management of the Hospital has established for the purpose of reviewing major complaints that patients and others have made. VIHA includes with its submission a copy of the terms of reference from the "Hospital Medical Staff QA/RM/UM Committee". I take this to be the same committee described as the HQAC. The terms of

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[15] Order F10-08 [2010] B.C.I.P.C.D. No. 12; Order F09-07 [2007] B.C.I.P.C.D. No. 10; Order F06-15 [2006] B.C.I.P.C.D. No. 22.
[16] VIHA's supplementary submission, para. 12.
[17] VIHA's supplementary submission, Exhibit B, Affidavit of the complainant, para. 6.

reference state, "The Committee assumes overall responsibility for all medical quality control and audit functions."[18] These include:

> - to carry on studies of aspects of care, the finding of which will form the basis for recommendations/inservicing re ongoing care, development of guidelines/inservicing therefrom. Audits can then be conducted to determine if the guidelines/inservicing have improved care.
>
> - to develop a process to conduct prospective, concurrent and retrospective clinical reviews based on established standards and criteria for work performed in the Emergency Room, Surgical Suite and inpatient areas.

[36] According to the terms of reference, the members of the committee include appointed medical staff, a specialist, the chief of staff, the manager patient/client care, the clinical coordinator, and the health records manager. VIHA submits that the HQAC meets the definition of "committee" required in s. 51 of the *Evidence Act*.[19]

[37] VIHA submits further that s. 51(5) prohibits the disclosure of information provided to the HQAC, except under specific conditions, none of which apply with respect to the applicant's request.[20] VIHA submits that:

> The withheld portion of the last redacted paragraph in [the general practitioner's] Record contains information that is subject to section 51(5) of the *Evidence Act* as [the general practitioner's] information on this subject is based on the results of a review by the ... Quality Assurance Committee.[21]

[38] The general practitioner deposes that HQAC had received complaints surrounding the applicant's surgical practices.[22] VIHA concludes that s. 51 of the *Evidence Act* prohibits disclosure of the information in the relevant paragraph.[23]

[39] The applicant accepts that the HQAC appears to qualify as a committee for the purposes of the *Evidence Act.*[24] Nevertheless, he does express some concerns about the general practitioner's testimony, because he asserts that he never received any communications from any members of the HQAC to the effect that his treatment of patients was ever the subject of any complaints to the committee.[25] He appears to be questioning whether the HQAC had ever received any complaints about him. I note, however, that the letter from the head of surgery that the applicant appended to his initial submission indicates that, in

[18] VIHA's supplementary submission, Exhibit A.
[19] VIHA's supplementary submission, para. 8.
[20] VIHA's supplementary submission, para. 13.
[21] VIHA's supplementary submission, para. 12.
[22] VIHA's supplementary submission, Exhibit B, Affidavit of the complainant, para. 3.
[23] VIHA's supplementary submission, para. 20.
[24] Applicant's supplementary submission, para. 8.
[25] Applicant's supplementary submission, para. 9.

their meeting three days before, they had discussed a "QA case" involving one of the applicant's former patients.[26]

[40] The applicant also raises the issue as to whether, by disclosing information about an HQAC case to the head of surgery in the letter, the general practitioner had breached s. 51 of the *Evidence Act*. The applicant invites me to consider this issue and communicate my opinion to the Board of Management of VIHA.[27] The OIPC does not have the jurisdiction to investigate or determine alleged breaches of the *Evidence Act* or any other legislation, apart from FIPPA and the *Personal Information Protection Act* ("PIPA"), and so I will not comment on this allegation.

[41] The applicant accepts that s. 51 of the *Evidence Act* applies to records of a committee or records supplied to the committee. He submits, however, that there is no reference to it applying to the recollections of committee members about information before the committee.[28] He notes that previous orders have concerned only records submitted to, or produced by, appropriate committees.

Analysis

[42] There appears to be consensus that the HQAC qualifies as a committee under the *Evidence Act*. I agree with this conclusion, and find that it is a committee for the purpose of the *Evidence Act.* This is consistent with the findings of Senior Adjudicator Francis in Order F09-07[29] and Order F06-15.[30] Therefore, any disclosure to the applicant of records that contain findings or information that it received during the course of deliberating on individual cases is restricted, as none of the provisions allowing limited disclosure apply in this case. I accept that the general practitioner was a member of the committee and, as a result, became privy to the details of the case that he communicated to the head of surgery in the record in dispute. In his letter to the head of surgery, the general practitioner identifies that the HQAC was the source from which he became aware of the information. There is no evidence to suggest that he obtained the information through another source. I do not agree with the applicant that the *Evidence Act* applies only to the records committees themselves create or receive. The actual wording of the legislation refers to "information or a record provided to the committee". This would cover other communications of the substance of records.

[43] I am satisfied, based on VIHA's submission, the general practitioner's affidavit and the content of the passage in question, that the information at issue was originally provided to the HQAC, for the purpose of reviewing the quality of

[26] Applicant's initial submission, appendix 1.
[27] Applicant's supplementary submission, para. 13.
[28] Applicant's supplementary submission, para. 18.
[29] [2009] B.C.I.P.C.D. No. 19.
[30] [2006] B.C.I.P.C.D. No. 22.

care that the patient received. Therefore, I find that the redacted portion of the last paragraph on page 3 of the letter was subject to s. 51(5) of the *Evidence Act* and that the prohibition on disclosure in s. 51(7) of that Act applies despite FIPPA.

4.0 CONCLUSION

[44] For the reasons discussed above, I make the following orders under s. 58 of FIPPA:

1. Subject to paragraph # 2 below, I require VIHA to refuse to disclose, in accordance with s. 22(1), the information in the requested record, as highlighted in yellow in copies provided to VIHA with a copy of this order.

2. I require VIHA to disclose the remaining information to the applicant.

3. I require VIHA to give the applicant access to this information within 30 days of the date of this order, as FIPPA defines "day", that is, on or before January 12, 2011 and, concurrently, to copy me on its cover letter to the applicant, together with a copy of the record.

[45] Given that I have found that s. 51 of the *Evidence Act* applies to the redacted information in the final paragraph of page 3 of the letter, no order is necessary regarding that information.

November 29, 2010

ORIGINAL SIGNED BY

Jay Fedorak
Adjudicator

OIPC File No: F09-37243

Appendix

The relevant provisions of the *Freedom of Information and Protection of Privacy Act* read as follows:

Disclosure harmful to personal privacy

22(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether …

(a) the disclosure is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny,

…

(c) the personal information is relevant to a fair determination of the applicant's rights

…

(f) the personal information has been supplied in confidence,

…

(3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if ...

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation,

Relationship of Act to other Acts

79 If a provision of this Act is inconsistent or in conflict with a provision of another Act, the provision of this Act prevails unless the other Act expressly provides that it, or a provision of it, applies despite this Act.

The relevant provisions of the *Evidence Act* read as follows:

Health care evidence

51(1) In this section:

"board of management" means a board of management as defined in the *Hospital Act;*

"committee" means any of the following:

(a) a medical staff committee within the meaning of section 41 of the *Hospital Act;*

(b) a committee established or approved by the board of management of a hospital, that includes health care professionals employed by or practising in that hospital, and that for the purpose of improving medical or hospital care or practice in the hospital

(i) carries out or is charged with the function of studying, investigating or evaluating the hospital practice of or hospital care provided by health care professionals in the hospital, or

(ii) studies, investigates or carries on medical research or a program;

(c) a group of persons who carry out medical research and are designated by the minister by regulation;

(d) a group of persons who carry out investigations of medical practice in hospitals and who are designated by the minister by regulation;

"health care professional" means

(a) a medical practitioner,

(b) a person qualified and permitted under the *Dentists Act* to practise dentistry or dental surgery,

(c) a registered nurse as defined in the *Nurses (Registered) Act,*

(d) [Repealed 1998-42-7.]

(e) a person registered as a member of a college established under the *Health Professions Act,*

(f) a pharmacist as defined in the *Pharmacists Act, or*

(g) a member of another organization that is designated by regulation of the Lieutenant Governor in Council;

"hospital" means a hospital as defined in the *Hospital Insurance Act* and includes

(a) a hospital as defined in the *Hospital Act,* and

(b) a Provincial mental health facility as defined in the *Mental Health Act;* …

(5) A committee or any person on a committee must not disclose or publish information or a record provided to the committee within the scope of this section or any resulting findings or conclusion of the committee except

(a) to a board of management,

(b) in circumstances the committee considers appropriate, to an organization of health care professionals, or

(c) by making a disclosure or publication

(i) for the purpose of advancing medical research or medical education, and

(ii) in a manner that precludes the identification in any manner of the persons whose condition or treatment has been studied, evaluated or investigated.

(6) A board of management or any member of a board of management must not disclose or publish information or a record submitted to it by a committee except in accordance with subsection (5) (c).

(7) Subsections (5) and (6) apply despite any provision of the *Freedom of Information and Protection of Privacy Act* other than section 44 (2) and (3) of that Act.

(8) Subsection (7) does not apply to personal information, as defined in the *Freedom of Information and Protection of Privacy Act,* that has been in existence for at least 100 years or to other information that has been in existence for at least 50 years.

Hospital Act

"board of management" means the directors, managers, trustees or other body of persons having the control and management of a hospital;

41(1) In this section, **"medical staff committee"** means a committee established or approved by a board of management of a hospital for

(a) evaluating, controlling and reporting on clinical practice in a hospital in order to continually maintain and improve the safety and quality of patient care in the hospital, or

(b) performing a function for the appraisal and control of the quality of patient care in the hospital.