Order F24-95

BRITISH COLUMBIA COLLEGE OF NURSES AND MIDWIVES

Carol Pakkala
Adjudicator

November 19, 2024

CanLII Cite: 2024 BCIPC 108
Quicklaw Cite: [2024] B.C.I.P.C.D. No. 108

Summary: An applicant requested the British Columbia College of Nurses and Midwives (College) provide access, under the *Freedom of Information and Protection of Privacy Act* (FIPPA), to records related to a complaint about a nursing student. The College withheld information from the responsive records under several FIPPA exceptions to access. The adjudicator confirmed the College's decision to withhold information from the responsive records under ss. 13(1) (advice or recommendations), 14 (solicitor client privilege), and 22(1) (unreasonable invasion of a third party's personal privacy).

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, [RSBC 1996] c. 165, ss. 13, 14, and 22(1), 22(2), 23(3), 23(3)(d), 22(4).

INTRODUCTION

[1] A nursing educator (applicant) requested that the British Columbia College of Nurses and Midwives (College) provide access to records under the *Freedom of Information and Protection of Privacy Act* (FIPPA). The request was for the College's entire file about a complaint the applicant made against a named former nursing student (student).[1]

[2] The College provided responsive records to the applicant but withheld some information from them under ss. 12(3)(b) (local public body confidences),13(1) (advice or recommendations), 14 (solicitor client privilege), and 22(1) (unreasonable invasion of third party personal privacy) of FIPPA.[2]

[1] I will use they/them pronouns for both the applicant and student to shield their identities.
[2] From this point forward, when I refer to sections, I am referring to sections of FIPPA unless I indicate otherwise.

[3] The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review the College's decision. Mediation by the OIPC did not resolve the issues and the applicant asked that this matter proceed to this inquiry.

[4] During the submissions phase of this inquiry, the College reconsidered its severing decisions and indicated that it would release additional information.[3] I find that information is no longer in dispute, and I will not consider it further. The College also indicated it is no longer relying on s. 12(3)(b),[4] so I find that section is no longer at issue and I will not consider it further.

Preliminary matters

Appropriate person

[5] Section 54(b) provides that any person the Commissioner considers appropriate is entitled to receive a copy of the request for review. Section 56(3) provides that any person given a copy of the request for review must be given an opportunity to make representations during the inquiry. The access request in this inquiry was for a complaint file about the student so I considered whether or not to invite the student as an "appropriate person". Prior to making this decision, I asked the parties to make submissions on this issue.[5]

[6] The College took no position on whether to invite the student. The College said its submissions address the third party's privacy interests.[6] The applicant objected to the participation of the student. The applicant says the participation of the student could jeopardize the integrity of this inquiry because:

- it may lead to unintended disclosures that compromise the applicant's privacy;
- it could introduce bias, affecting the outcome;
- the applicant wishes to maintain control over who is involved in this matter;
- the applicant questions whether the student's participation is necessary, relevant, and essential for resolving their complaint;
- the applicant formally objects to any third party involvement in this investigation and specifically does not provide informed consent.[7]

[7] In addition to the parties' submissions, I considered the factors recently identified by the BC Court of Appeal as relevant to deciding whether to invite a

[3] College's initial submission at para 30.
[4] *Ibid* at para 29.
[5] Adjudicator's letter to the parties dated October 24, 2024.
[6] College's October 25, 2024 email to the OIPC.
[7] Applicant's November 3, 2024 email to the OIPC.

third party to an inquiry.[8] These factors include the nature of the records at issue, the number of potentially affected third parties, the practical logistics of providing notice (including any alternatives), and any potential institutional resource issues.

[8] The nature of the records at issue is a factor that weighs in favour of inviting the student. The entire focus of this inquiry is on the records of a professional practice complaint against the student. A professional practice complaint is a serious matter that can adversely affect the career of that student.

[9] The practical logistics of providing notice is a factor that weighs against inviting the student. To participate meaningfully, the student would need to see the inquiry materials which contain information about the applicant. The process of anonymizing these materials is challenging.

[10] In addition to the factors discussed above, I am persuaded by the parties' submissions about inviting the student. The applicant strenuously objected to the participation of the student. The applicant questioned whether the student's participation was necessary, relevant, and essential for resolving their complaint. I reviewed the records with that question in mind, along with the College's submission that it addressed the privacy interests of the student.

[11] Based on my review of the records and the submissions of the parties, I find that participation of the student here is not necessary or essential because the College has sufficiently addressed the privacy interests of the student. I can see no additional arguments that the student could make that would change my s. 22 analysis.

[12] For the reasons above, I decided not to invite the student to participate in this inquiry.

Matters outside the scope of this inquiry

[13] From the entirety of the applicant's submissions, they appear to be dissatisfied with the College's response to a complaint they made about the student. Specifically, the applicant says there were notable inconsistencies in how the College handled their complaint about the student versus how it handled a complaint filed against the applicant by someone else. The applicant also says the complaint filed against them was retaliatory. The applicant further identifies concerns about fairness, transparency, and potential racial bias in the College's disparate handling of the two complaints.[9]

---

[8] *The Office of the Information and Privacy Commissioner for British Columbia* v. *Airbnb Ireland UC*, 2024 BCCA 333 at paras 51-52.

[9] Applicant's submission. This submission is contained in an email to the OIPC dated October 4, 2024. I will refer to it from this point forward as the applicant's submission.

[14] In this inquiry, my task is to dispose of the issues listed in the OIPC investigator's fact report and the notice of inquiry. Those issues are limited to whether certain FIPPA exceptions to disclosure apply to the information in dispute. While I can see that the College's handling and disposition of the complaints are important issues, I do not have the legal authority to decide them. As a result, while I have read and considered the applicant's entire submission, I will not refer to it further because it does not relate to the FIPPA issues in this inquiry.

ISSUES AND BURDEN OF PROOF

[15] The issues I must decide in this inquiry are:

1. Is the College is authorized by ss. 13(1) and 14 to refuse to disclose the information in dispute?

2. Is the College required by s. 22(1) to refuse to disclose the information in dispute?

[16] Section 57(1) places the burden on the public body, here the College, to prove an applicant has no right of access to a record or part of a record withheld under ss. 13(1) and 14.

[17] Section 57(2) places the burden on the applicant to prove that disclosing the information in dispute would not unreasonably invade a third party's personal privacy under s. 22(1). However, the College has the initial burden of proving the information in dispute is personal information.[10]

DISCUSSION

Background

[18] The College is the professional regulatory body for the practice of nursing and midwifery in British Columbia. The applicant filed a professional practice complaint against the student, a College registrant, with the College (complaint). The College contracted an inspector to investigate the complaint and write a report (inspector).

[19] The inspector submitted a report to the College's inquiry committee (Inquiry Committee) recommending the complaint be dismissed. The Inquiry Committee approved the recommendation. The responsive records are the College's file for the complaint.

[10] Order 03-41, 2003 CanLII 49220 (BCIPC) at paras 9-11.

Information in dispute

[20] There are 131 pages of responsive records consisting of letters, reports, emails, minutes, and a decision of the Health Professions Review Board. The information in dispute in this inquiry appears on 54 pages of the records.

Advice or recommendations, s. 13

[21] The College applied s. 13 to withhold portions of the College's *Report on Registrar's Action*[11] about the dismissal of the complaint (Report).

[22] Section 13(1) allows a public body to refuse to disclose information that would reveal advice or recommendations developed by or for a public body. The purpose of s. 13(1) is to allow for full and frank discussion of advice or recommendations on a proposed course of action by preventing the harm that would occur if the deliberative processes of decision and policy making were subject to excessive scrutiny.[12]

[23] The terms "advice" and "recommendations" are not defined in FIPPA but the courts have interpreted those terms and the OIPC has routinely adopted these interpretations in the s. 13(1) analysis. I do the same here.

[24] The term "recommendations" has been interpreted to include material that relates to a suggested course of action that will ultimately be accepted or rejected by the person being advised. The term "advice" has been interpreted as having a broader meaning than recommendations[13] and includes opinions that involve the exercise of judgment and skill in weighing the significance of matters of fact. Advice includes communications about both future action[14] and about an existing set of circumstances.[15]

[25] Public bodies are not allowed to withhold *all* information that reveals advice or recommendations. Section 13(2) sets out various kinds of records and information that the head of a public body must not refuse to disclose under s. 13(1) (e.g., factual material), even if that information would reveal advice or recommendations. Further, s. 13(3) states that s. 13(1) does not apply to information in a record that has been in existence for 10 or more years.

---

[11] Records, pp. 3-18.
[12] *John Doe* v. *Ontario (Finance)*, 2014 SCC 36 at paras 45-51 [*John Doe*].
[13] *John Doe* at para 24.
[14] *College of Physicians of BC v British Columbia (Information and Privacy Commissioner),* 2002 BCCA 665 at para 113 [*College*].
[15] *College* at para 103.

Parties' submissions, s. 13(1)

[26] The College says the Report contains advice and recommendations from the Registrar to the Inquiry Committee seeking approval from the Inquiry Committee to dismiss the complaint.[16]

[27] The College provided an affidavit from its Deputy Registrar/Executive Director of Inquiry, Discipline and Monitoring (Deputy Registrar), describing the portions of the Report withheld under s.13. She attests that the College carefully reviewed the Report and has released any facts or information that it can share with the applicant without revealing the advice and recommendations. She further attests that any remaining facts and recommendations are inextricably linked with the advice.[17]

[28] The applicant does not address s. 13(1) in their submission.

Analysis and findings, s. 13(1)

[29] For the reasons that follow, I find that s. 13(1) applies to the information withheld under that section.

[30] The first step in the s. 13(1) analysis is to decide if the information in dispute is advice or recommendations. As mentioned above, the information at issue under s. 13(1) is in the Report. I can see that the Report is divided into seven sections: (1) Introduction, (2) Registrar's Power to Investigate Complaints, (3) Summary of the Complaint, (4) Chronology of Investigation, (5) Summary of Evidence, (6) Analysis of Complaint, and (7) Disposition. The information withheld in the Report is located under sections five, six, and seven.

[31] Based on my review of the Report, I am satisfied that the information in dispute would reveal advice or recommendations to the Inquiry Committee about the complaint. The College disclosed most of the information in section five of the Report but withheld the final paragraph. The College also withheld all of sections six and seven which deal with the legal analysis and disposition of the complaint. I accept the Deputy Registrar's evidence that together, these sections comprise the Registrar's rationale for recommending that the Inquiry Committee dismiss the complaint.[18] Having reviewed the withheld information, I agree with the Deputy Registrar's description. I find the information withheld from the Report is both advice and recommendations.

---

[16] College's initial submission at para 20.
[17] Deputy Registrar's affidavit at paras 25-26. She also swears, at para 27, that the release of the advice and recommendations would cause harm to the College. Section 13 is not a harms-based exception to disclosure so I did not consider this evidence.
[18] Deputy Registrar's affidavit at para 25(b).

Sections 13(2) and (3)

[32] The next step in the s. 13(1) analysis is to consider whether any of the circumstances under ss. 13(2) and 13(3) apply to the information that I found would reveal advice or recommendations. Subsections 13(2) and 13(3) identify certain types of records and information that a public body may not withhold under s. 13(1).

[33] The College does not address any of the provisions in s. 13(2). I have reviewed the categories under s. 13(2) and conclude the only other relevant provision is s. 13(2)(a) which applies to any factual material. Therefore, I consider s. 13(2)(a) below, along with s. 13(3).

Factual material – s. 13(2)(a)

[34] Section 13(2)(a) says the head of a public body must not refuse to disclose under s. 13(1) any factual material. The term "factual material" does not include facts that are an integral and necessary component of the advice or recommendations.[19] It also does not include facts compiled and selected by an expert, using his or her expertise, judgment and skill for the purpose of providing explanations necessary to the deliberative process of a public body.[20] The protection given to these integral facts ensures no accurate inferences can be drawn about the advice or recommendations developed by or for the public body.[21]

[35] I can see that the College disclosed most of the factual and background information in the Report and only withheld a small amount of information of a factual nature.[22] I am satisfied that these facts are an integrated part of the Registrar's advice and recommendations to the Inquiry Committee and disclosing them may allow someone to accurately infer that advice or those recommendations. As noted above, s. 13(2)(a) does not apply to factual information that is a necessary and integrated part of the advice or recommendations developed by or for a public body. Therefore, although some of the withheld information is factual in nature, I find it is not "factual material" under s. 13(2)(a).

---

[19] *Insurance Corporation of British Columbia v. Automotive Retailers Association*, 2013 BCSC 2025 at paras 52-53.
[20] *Provincial Health Services Authority v. British Columbia (Information and Privacy Commissioner)*, 2013 BCSC 2322 at para 94.
[21] *Insurance Corporation of British Columbia v. Automotive Retailers Association*, 2013 BCSC 2025 at para 52.
[22] For example, on p. 9 of the Records.

Information in existence for 10 or more years – s. 13(3)

[36] Under s. 13(3), any information in a record that has been in existence for 10 or more years cannot be withheld under s. 13(1). Neither of the parties made any submissions about s. 13(3). Nevertheless, I find s. 13(3) does not apply because the oldest information in dispute was created in 2020. Therefore, at the time of this inquiry, this information has been in existence for less than 10 years.

Summary, s.13

[37] I find that the information the College withheld from the Report is advice and recommendations and that ss. 13(2) and (3) do not apply. For these reasons, I find s. 13(1) authorizes the College to withhold the information in dispute in the Report.

Solicitor client privilege, s. 14

[38] The College applied s. 14 to portions of email chains.

[39] Section 14 allows a public body to refuse to disclose information that is subject to solicitor client privilege. Section 14 encompasses two kinds of privilege recognized at common law: legal advice privilege and litigation privilege.[23] The College relies on legal advice privilege.

[40] For information to be protected by legal advice privilege it must be contained in a communication that was:

- between a solicitor and client (or their agent);
- intended by the solicitor and client to be confidential; and
- made for the purpose of seeking or providing legal advice, opinion or analysis.[24]

[41] Not every communication between a solicitor and their client is privileged, but if the conditions above are satisfied, then legal advice privilege applies to the communication and the records relating to it.[25]

[42] The courts have established that privilege also applies to information that, if disclosed, would reveal, or allow an accurate inference to be made about, privileged information e.g., internal client communications that transmit or comment on privileged communications with lawyers.[26] Further, privilege extends

[23] *College of Physicians of BC v British Columbia (Information and Privacy Commissioner), 2002 BCCA 665* at para 26.
[24] *Solosky v. The Queen*, [1980] 1 SCR 821 at p. 837 [*Solosky*].
[25] *Solosky* at p. 829.
[26] *Solosky* at p. 834.

beyond the actual requesting or giving of legal advice to the "continuum of communications" between a lawyer and client, which includes the necessary exchange of information for the purpose of providing legal advice.[27]

[43] I adopt the above test and principles in making my decision.

Evidentiary basis for solicitor client privilege

[44] The College did not provide me with the information it withheld under s. 14. Instead, to support its claim of privilege, the College provided the affidavit sworn by the Deputy Registrar, who is a lawyer. Her affidavit includes an index that provides a description of the records including the type (i.e., email), the date, and the names of the people involved in the communications. I also have the emails from which the information was severed which provide some context for the s. 14 information.

[45] Section 44 gives the Commissioner or his delegate the power to order production of records over which solicitor client privilege is claimed. However, the Commissioner or his delegate will only exercise this discretionary power when absolutely necessary to adjudicate the issues. This approach is warranted by the importance of solicitor client privilege to the proper functioning of the legal system.[28]

[46] In this case, after reviewing the records and the College's submissions and affidavit evidence, I find I have enough information to decide whether s. 14 applies.

[47] I am satisfied that the Deputy Registrar has direct knowledge of the records in question. I considered that the Deputy Registrar, as a lawyer and an officer of the court, has a professional duty to ensure that privilege is properly claimed.[29] She swears her role at the time of the complaint was the Director, Inquiry and Discipline and legal counsel providing legal advice to inspectors and to the Inquiry Committee on all matters related to the investigation and disposition of complaints.[30]

[48] The Deputy Registrar's evidence is that the portions of the emails that have been withheld are privileged and confidential communications between the

---

[27] *Huang v Silvercorp Metals Inc*., 2017 BCSC 795 at para 83 and *Camp Development Corporation v. South Coast Greater Vancouver Transportation Authority, 2011 BCSC 88* at para 42.
[28] Order F19-14, 2019 BCIPC 16 (CanLII) at para 10; *Canada (Privacy Commissioner) v Blood Tribe Department of Health*, 2008 SCC 44 at para 17; *Alberta (Information and Privacy Commissioner) v. University of Calgary*, 2016 SCC 53 (CanLII) at para 68.
[29] *Nelson and District Credit Union v Fiserv Solutions of Canada, Inc*., 2017 BCSC 1139 at para 54.
[30] Deputy Registrar's affidavit at para 29.

inspector and the College's in house lawyers. The Deputy Registrar attests that the emails are about the inspector seeking legal advice from the College's in house lawyers who provided that advice. These lawyers[31] are identified by their names in the address and signature blocks of the emails.[32]

[49] I am satisfied that I have sufficient detail to make an informed decision. I conclude it is not necessary to order production of the portions of the records severed.[33]

Parties' submissions, s. 14

[50] The College says that information withheld under s. 14 is protected by solicitor client privilege. The College says solicitor client privilege extends to in house counsel acting in a legal capacity.[34] The College further says privilege extends to communications that are part of the continuum of information exchanged for the purpose of obtaining and providing legal advice, including history and background or communications to clarify or refine the issues or facts.[35]

[51] The applicant does not address s. 14 in their submission.

Analysis, s. 14

[52] For the reasons that follow, I am satisfied that legal advice privilege applies to the information in dispute.

[53] Based on the Deputy Registrar's affidavit evidence, which I accept, I am satisfied that the email chains are communications between the College's lawyers and the inspector about seeking and giving legal advice. I can see that the inspector was acting on behalf of the College, like an employee would, or an agent carrying out a function for the client.

[54] Solicitor client privilege extends to staff lawyers provided they are acting in a legal capacity and not a business or management capacity.[36] To determine whether the staff lawyers were acting in a legal capacity at the relevant time, I considered the Deputy Registrar's evidence about the nature of the relationship between those lawyers and the inspector, the subject matter of the advice (the

---

[31] Deputy Registrar's affidavit at para 30.
[32] Records at pp. 88-90, 91-97, and 107-116.
[33] For similar reasoning, see *British Columbia (Minister of Finance) v. British Columbia (Information and Privacy Commissioner)*, 2021 BCSC 266 at para 78 and Order F23-48, 2023 BCIPC 56 (CanLII) at para 16.
[34] College's initial submission at para 42.
[35] College's initial submission at para 43.
[36] *Keefer Laundry Ltd. v Pellerin Milnor Corp. et al*., 2006 BCSC 1180 [*Keefer Laundry*] at para 63 and *Pritchard v. Ontario (Human Rights Commission),* 2004 SCC 31 at para 20.

complaint), and the circumstances in which it the legal advice was sought and rendered.[37] From the Deputy Registrar's affidavit and from the context visible in the emails themselves, I am satisfied these lawyers were acting in their capacity as lawyers, not in a business or management capacity.

[55] Finally, I also accept the Deputy Registrar's evidence that these communications were intended to remain confidential. There is nothing to suggest otherwise.

[56] In conclusion, I find that all three parts of the test for legal advice privilege are met. Disclosing the withheld information would reveal confidential communications in which the inspector, acting on behalf of the College, sought and received legal advice from the College's in house lawyers.

Summary, s.14

[57] I find that the information the College withheld from the emails is protected by legal advice privilege. For this reason, I find s. 14 authorizes the College to withhold the information in dispute in those emails.

Disclosure harmful to personal privacy, s. 22

[58] Section 22(1) requires a public body to refuse to disclose personal information to an applicant if its disclosure would be an unreasonable invasion of a third party's personal privacy. Section 22(1) is mandatory, meaning a public body has no discretion and is required by law to refuse to disclose this information.

[59] A "third party" is defined in Schedule 1 of FIPPA as any person, group of persons or organization other than the person who made the access request or a public body.

[60] Previous orders have considered the proper four step approach to the application of s. 22 and I apply those same principles here.[38]

Step 1: Personal information

[61] Section 22(1) only applies to personal information, so the first step in a s. 22 analysis is to decide if the information in dispute is personal information.

[62] FIPPA defines personal information as "recorded information about an identifiable individual other than contact information." Contact information is

[37] *Keefer Laundry* at para 64, citing *R v. Campbell*, 1999 CanLII 676 (SCC) at para 50.
[38] Order F15-03, 2015 BCIPC 3 (CanLII) at para. 58 sets out a summary of the steps in a s. 22 analysis. I will follow the same approach in this matter.

defined as "information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual."[39] Whether information is "contact information" depends upon the context in which it appears.[40]

[63] The College says the information it severed from the records under s. 22 is the personal information of the student and of other College registrants.[41] I reviewed the information at issue under s. 22 and can confirm that it is information about identifiable third parties, either directly or when combined with other available information. I find that some of the withheld information is about the student and the investigation of the applicant's complaint about the student. I find that some of this information is simultaneously the applicant and student's personal information because it is about their interactions. This personal information is inextricably intertwined. I find that the other withheld information is about other registrants who were the subject of investigations, including their names and information about those investigations.

[64] I find that none of the withheld information was provided to enable third parties to be contacted at a place of business, so it is not contact information. I can see, in some instances, that there are email and residential addresses which might be classified as contact information as defined by FIPPA.[42] However, whether information will be considered "contact information" depends on the context.[43] Here, these third parties provided their addresses outside the normal course of their business capacity. I find that in this context, that information was provided in a specific context, for a specific purpose, not in order to allow those third parties to be contacted at a place of business.

[65] I find that all of the information withheld under s. 22(1) is personal information as it is recorded information about identifiable individuals and is not contact information.

Step 2: Not an unreasonable invasion of privacy, s. 22(4)

[66] The next step in a s. 22 analysis is to assess whether the personal information falls into any of the types of information listed in s. 22(4). If so, then its disclosure is not an unreasonable invasion of personal privacy.

---

[39] FIPPA, Schedule 1.
[40] Order F20-13, 2020 BCIPC 15 (CanLII) at para 42.
[41] College's initial submission at paras 46 and 53.
[42] For example, on pp. 117 and 122.
[43] Order F08-03, 2008 CanLII 13321at para 82; Order F14-45, 2014 BCIPC 48 at para 41; Order F20-13, 2020 BCIPC 15 (CanLII) at para 42.

[67] The College says none of the circumstances enumerated in section 22(4) apply to the third party personal information severed from the record.[44] The applicant does not address s. 22(4). I reviewed the personal information in light of the provisions under s. 22(4) and find that none apply.

Step 3: Presumption of an unreasonable invasion of privacy, s. 22(3)

[68] The third step in the s. 22 analysis looks at the circumstances set out in s. 22(3). If any of those circumstances exist, disclosure of that personal information is presumed to be an unreasonable invasion of a third party's personal privacy.

[69] The College says ss. 22(3)(d) applies.[45] I considered whether any of the other subsections in s. 22(3) apply and I find that only s. 22(3)(d) is relevant in this case.

[70] Section 22(3)(d) provides that a disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if the personal information relates to employment, occupational or educational history.

[71] Previous orders have held that s. 22(3)(d) applies to "information about a person's work history, leave transactions, disciplinary action taken, reasons for leaving a job and comments about an individual's workplace actions or behaviour in the context of a workplace complaint or discipline investigation."[46]

[72] I find that disclosing the personal information of the student and of the other College registrants would reveal details of professional practice investigations. I find this information relates to their employment and occupational history. Accordingly, disclosing this information is presumed to be an unreasonable invasion of their personal privacy under s. 22(3)(d).[47]

Step 4: Relevant circumstances, s. 22(2)

[73] The final step in a s. 22 analysis is to consider the impact of disclosure of the personal information in light of all relevant circumstances, including those listed in s. 22(2). It is at this step, after considering all relevant circumstances, that the applicant may rebut the presumption created under s. 22(3)(d).

---

[44] College's initial submission at para 50.
[45] College's initial submission at para 51.
[46] Order 02-56, 2002 CanLII 42493 (BC IPC) at para 71, referring to Order 00-53, 2000 CanLII 14418 (BC IPC). Order 02-56 was upheld on judicial review. See *Architectural Institute of BC v Information and Privacy Commissioner for BC,* 2004 BCSC 217 (CanLII).
[47] For a similar analysis, see Order F23-52, 2023 BCIPC 61 (CanLII) at paras 116 to 119.

[74] The applicant has not identified, and I cannot see, any circumstances that might weigh in favour of disclosure and rebut the presumption created under s. 22(3)(d). Instead, I see circumstances that weigh against disclosure.[48] For these reasons, I find the applicant has not met their burden of proving that disclosing the personal information in dispute would not unreasonably invade a third party's personal privacy under s. 22(1).

Conclusion, s. 22

[75] I found that all of the information withheld by the College under s. 22(1) is personal information. I found that none of the circumstances in s. 22(4) apply here. I found that the disclosure of all the information in dispute is presumed to be an unreasonable invasion of the third parties' personal privacy under s. 22(3)(d) because it is about the third parties' employment and occupational history (professional practice investigations). I found the applicant has not rebutted this presumption so it was unnecessary to consider s. 22(2).

[76] I find that disclosing the third parties' personal information would be an unreasonable invasion of their personal privacy under s. 22(1). Therefore, the College must refuse to give the applicant access to that information.

CONCLUSION

[77] For the reasons given above, I make the following order under s. 58 of FIPPA:

1. I confirm the College's decision to refuse to disclose the information in dispute under ss. 13 and 14.

2. I confirm the College's decision to refuse to disclose the information in dispute under s. 22(1).

November 19, 2024

ORIGINAL SIGNED BY

Carol Pakkala, Adjudicator

OIPC File No: F22-90183

[48] For example, s. 22(2)(h).