



Order F25-80

SURREY MEMORIAL HOSPITAL

Lisa Siew
Adjudicator

October 16, 2025

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Summary: Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an individual (Applicant) requested Surrey Memorial Hospital (Hospital) provide access to their deceased parent's hospital and health records. The Hospital determined the Applicant was not acting on behalf of their deceased parent, as required under s. 5(1)(b) of FIPPA, when they made the access request. Therefore, the Hospital processed the access request as if the Applicant was requesting access to records containing a third party's personal information and refused access to the responsive records under s. 22(1) (unreasonable invasion of third-party personal privacy) of FIPPA. The Applicant requested the Office of the Information and Privacy Commissioner review the Hospital's decisions and the matter was later forwarded to inquiry. The adjudicator found the Hospital had correctly determined the Applicant was not acting on behalf of their deceased parent in accordance with s. 5(1)(b) of FIPPA. The adjudicator also concluded the Hospital was required under s. 22(1) to refuse access to some but not all the information at issue in the disputed records and ordered the Hospital to provide the Applicant with access to the information that it was not required to withhold under s. 22(1).

Statutes and sections considered in the order: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165, ss. 5(1)(b), 22(1), 22(2)(a), 22(2)(b), 22(2)(c), 22(2)(i), 22(3)(a), 22(3)(d), 22(4)(a), 22(4)(e) and Schedule 1 (definition of "contact information", "personal information" and "third party"). *Freedom of Information and Protection of Privacy Regulation*, BC Reg 155/2012, ss. 5(1), 5(2) and 5(4). *Interpretation Act*, RSBC 1996, c. 283, s. 1 (definition of "personal representative").

INTRODUCTION

[1] In January 2024, an individual (the Applicant) requested Surrey Memorial Hospital (Hospital) provide access, under the *Freedom of Information and Protection of Privacy Act* (FIPPA), to records related to their deceased parent for

the period of December 27 to 30, 2023.¹ I will refer to the Applicant's deceased parent as the "Deceased". In their access request, the Applicant specified that they were seeking access to a hospital visit summary, emergency visit information, diagnostic reports and all medications the Deceased received during their hospital stay.²

[2] The Hospital determined the Applicant was not authorized to act on behalf of the Deceased in accordance with s. 5(1)(b) of FIPPA and treated the Applicant's request as if they were seeking access to the records of a third party. The Hospital refused to provide the Applicant with access because it decided disclosing the requested records would be an unreasonable invasion of a third-party's personal privacy under s. 22(1) of FIPPA.

[3] The Applicant requested the Office of the Information and Privacy Commissioner (OIPC) review the Hospital's decision. The OIPC's investigation and mediation process did not resolve the dispute between the parties, and the matter was forwarded to this inquiry. Both the Hospital and the Applicant provided submissions to support their positions at this inquiry. The Hospital was represented in this inquiry by a lawyer who made submissions on the Hospital's behalf. I will refer to this individual as the Lawyer.

[4] During the inquiry, the Hospital reconsidered its initial decision to refuse the Applicant access to all the records responsive to their access request. The Hospital decided some of the information in the responsive records was both the Applicant and the Deceased's personal information and disclosed this information to the Applicant. Therefore, I conclude this information is no longer at issue in this inquiry.

PRELIMINARY MATTER – WHO IS THE APPROPRIATE PUBLIC BODY?

[5] The Lawyer requested the OIPC designate the Fraser Health Authority as the appropriate public body in this case instead of the Hospital. The Lawyer acknowledges that both the Hospital and the Fraser Health Authority are public bodies under FIPPA.³ However, the Lawyer argues the Fraser Health Authority is the appropriate public body for the following reasons: (1) the Hospital "falls within the scope of Fraser Health Authority and Fraser Health Authority is responsible

¹ The OIPC's investigator's fact report identifies the timeframe of the requested records as December 27 to 30, **2024**. However, I believe this is a typographical error and the correct year is 2023 because in their access request, the applicant specifies they are requesting records from December 27 to 30, **2023**. I also note the access request was signed by the applicant on Jan 1, 2024. Therefore, it would be illogical for the applicant to be seeking records for December 2024 since they would not exist at that time.

² The Applicant also requested access to the Deceased's phone records, but the responsive records did not include any phone records. Therefore, I assume there were no phone records for that timeframe.

³ Hospital's submission dated July 18, 2025 at para. 6.

for processing such access requests”; and (2) there are previous OIPC orders where the Fraser Health Authority is listed as the public body.⁴

[6] The Applicant did not have an opportunity to respond to the Lawyer’s request to change the responsible public body for this inquiry. The Lawyer only made this request as part of the Hospital’s reply submission, which was the last submission expected from the parties in this inquiry. Usually, if the public body introduces new matters in their reply submission, then it may be fair to allow the other party to respond. However, given my ultimate conclusion about the Lawyer’s request, I decided that I did not need to hear from the Applicant about this matter and there was no unfairness to the Applicant in doing so.

[7] As I will explain below, I find the appropriate public body in this case is the Hospital and not the Fraser Health Authority. My analysis below has been guided by Adjudicator Fedorak’s discussion about this topic in Order F25-73. In that order, Adjudicator Fedorak recently addressed and rejected a similar argument made by the Fraser Health Authority in relation to the Peace Arch Hospital.⁵

[8] As previously noted, the Lawyer accepts that the Hospital qualifies as a public body under FIPPA and I am satisfied that is the case. Schedule 1 of FIPPA defines the term “public body” to include “a local public body”, which is then defined to include “a health care body.” The term “health care body” under Schedule 1 of FIPPA includes “a hospital as defined in section 1 of the *Hospital Act*.” The term “hospital” is partly defined in the *Hospital Act* to mean “a nonprofit institution that has been designated as a hospital by the minister.”⁶ The Minister of Health is responsible for the designation of hospitals under s. 1 of the *Hospital Act* and has designated the Surrey Memorial Hospital as a hospital for the purposes of the *Hospital Act*.⁷ Therefore, I find the Hospital qualifies as a health care body and is, therefore, a public body under FIPPA.

[9] Section 4(1) of FIPPA gives an applicant the right of access to records in the custody or under the control of a public body. In their access request, the Applicant indicated they were requesting access to records from the Hospital.⁸ The Lawyer did not dispute the fact that the Hospital has custody or control of the requested records. Moreover, the Hospital processed and responded to the Applicant’s access request by refusing access to those records; therefore, the Hospital’s actions indicated that it did have custody or control of the responsive records.⁹

⁴ Hospital’s submissions dated July 18, 2025 at para. 6.

⁵ Order F25-73, 2025 BCIPC 84 (CanLII) at paras. 4-8, available online at: <https://www.oipc.bc.ca/documents/orders/3015>.

⁶ Section 1 of the *Hospital Act*, RSBC 1996, c 200.

⁷ Ministerial Order No. M352/2011, available online at: https://www.bclaws.gov.bc.ca/civix/document/id/mo/hmo/m0352_2011.

⁸ Applicant’s access request dated January 1, 2024.

⁹ Hospital’s response letter to the applicant dated January 10, 2024.

[10] Section 52(1) of FIPPA allows an access applicant to request the OIPC review a public body's decision to refuse access to all or parts of the responsive records. It is the Hospital's decision that is under review in this inquiry because it was the Hospital, and not the Fraser Health Authority, who made a decision about the Applicant's access request and informed the Applicant whether they were entitled to access as it was required to do in accordance with s. 8 of FIPPA.

[11] The Lawyer says the Fraser Health Authority is the appropriate public body in this case because it is responsible for processing access requests on behalf of the Hospital and it has been the public body in other OIPC orders. However, the Lawyer did not provide any evidence that the Fraser Health Authority processed and responded to the access request at issue in this inquiry. Instead, the evidence indicates that an employee from the Hospital's records management department processed and responded to the Applicant's access request.¹⁰ I was not provided with any evidence to indicate the Hospital's records management department and its staff process access requests on behalf of the Fraser Health Authority.

[12] I was also not provided with any evidence that shows the Hospital transferred the Applicant's access request to the Fraser Health Authority as it was entitled to do under s. 11 of FIPPA if certain conditions are satisfied. Instead, the OIPC Investigator's fact report, the notice of inquiry and the Hospital's initial submission all identified the Hospital as the relevant public body in this case, and the Hospital did not inform the OIPC that this was incorrect. The Lawyer only made this request at the end of the OIPC's inquiry submission process, and I find their arguments do not sufficiently explain why the Fraser Health Authority is the appropriate public body in this case.

[13] For all those reasons, I find the Lawyer's arguments about this matter are not persuasive and conclude the appropriate body for the purposes of this inquiry is the Hospital and not the Fraser Health Authority.

ISSUES AND BURDEN OF PROOF

[14] The issues I must decide in this inquiry are as follows:

1. Is the Applicant acting on behalf of the Deceased in accordance with s. 5(1)(b) of FIPPA and s. 5 of the Freedom of Information and Protection of Privacy Regulation (Regulation)?
2. Is the Hospital required to refuse access to the information in dispute under s. 22(1) of FIPPA?

¹⁰ Hospital's response letter to the applicant dated January 10, 2024.

[15] Section 57(2) of FIPPA places the burden on the Applicant to establish that disclosure of the information withheld under s. 22(1) would not be an unreasonable invasion of a third party's personal privacy. However, as the public body in this matter, the Hospital has the burden of proving that the information withheld under s. 22(1) is personal information.¹¹

[16] FIPPA does not identify which party has the burden to prove that an access applicant is an appropriate person to act on behalf of a deceased individual under s. 5(1)(b) of FIPPA and s. 5 of the Regulation. However, in these circumstances, previous OIPC orders have determined that each party is responsible for providing arguments and evidence to support their positions on those issues.¹² I adopt the same approach here. Both the Hospital and the Applicant have made submissions about those issues and neither party argued a different approach should apply in this case.¹³

DISCUSSION

Background

[17] In December 2023, the Deceased was admitted to the Hospital. The Deceased passed away during their hospital stay. The Applicant is one of the Deceased's surviving children. The Applicant has an older sibling, whom I will refer to in this order as the Sibling. At the Hospital's request, the Applicant provided their Sibling's authorization for the requested records to be disclosed to them.

Records and information at issue

[18] The responsive records total 132 pages, with approximately 127 of those pages containing the information in dispute for this inquiry. The parties describe the responsive records as the Deceased's "medical and health records."¹⁴

Acting on behalf of a deceased individual

[19] At issue in this inquiry is whether the Applicant is authorized to make an access request on behalf of the Deceased. The outcome of this matter will affect how the issue of s. 22 is determined in this inquiry. If the Applicant is found to be acting on behalf of the Deceased, then the access request is treated as if the Deceased made the request. In other words, the analysis under s. 22 would

¹¹ Order 03-41, 2003 CanLII 49220 (BC IPC) at paras 9-11.

¹² Order F18-08, 2018 BCIPC 10 (CanLII) at para. 7.

¹³ The Hospital accepts this approach in its submission dated June 27, 2025 at para. 8, but also argues the applicant is the only party capable of providing evidence that they were acting on behalf of the Deceased when they made their access request.

¹⁴ Applicant's submission dated July 15, 2025 at p. 1 and Hospital's submission dated June 27, 2025 at para. 2.

consider that the Deceased is requesting access to their own personal information rather than the Applicant requesting access to the personal information of a third party under FIPPA.¹⁵

[20] The requirements for determining whether an access applicant is acting on behalf of a deceased individual in exercising the deceased individual's access rights under FIPPA are set out in s. 5(1)(b) of FIPPA and in s. 5 of the Regulation. Section 5(1)(b) of FIPPA specifies how an applicant may make a request on behalf of another person. It reads:

5(1) To obtain access to a record, the applicant must make a written request that

(b) provides written proof of the authority of the applicant to make the request, if the applicant is acting on behalf of another person in accordance with the regulations,

[21] Section 5(2)(a) of the Regulation states that if an individual is deceased, an "appropriate person" may act for the deceased in relation to s. 5 of FIPPA. The term "appropriate person" is defined in s. 5 of the Regulation. The provisions relevant to this inquiry read as follows:

5(1) In this section:

"appropriate person" means,

(a) in respect of a deceased adult, one of the following:

(i) a committee acting under section 24 of the *Patients Property Act* for the deceased;

(ii) if there is no committee acting for the deceased, the personal representative of the deceased;

(iii) if there is no committee acting for the deceased and no personal representative of the deceased, the nearest relative of the deceased, and

"nearest relative" means the first person referred to in the following list who is willing and able to act under subsection (2) of this section for a deceased individual:

(a) spouse of the deceased at the time of death;

(b) adult child of the deceased;

¹⁵ Schedule 1 of FIPPA defines the term "third party" as any person, group of persons or organization other than the person who made the access request or a public body.

5(4) If the right to act under subsection (2) of this section passes to persons of equal rank in the listed order in the definition of "nearest relative", the right passes to the person who is the eldest of the persons and descends in order of age to the next person who is willing and able to act.

[22] Applying those provisions, previous OIPC orders have developed the following two-part test to determine whether an applicant is authorized to make an access request for a deceased individual:

- 1) Is the applicant an "appropriate person" under s. 5(1)(b) of the Regulation?
- 2) Is the applicant acting "on behalf of" the deceased individual under s. 5(1) of FIPPA?¹⁶

[23] Both parts of the test must be established for an applicant to exercise a deceased individual's access rights under FIPPA.¹⁷ I will take the same approach and apply this test below.

Is the Applicant an "appropriate person"?

[24] Section 5(1) of the Regulation identifies in order of priority the following "classes of individuals"¹⁸ who can qualify as an appropriate person to act for a deceased individual in relation to s. 5 of FIPPA: (1) a committee acting under s. 24 of the *Patients Property Act*; (2) a personal representative; and (3) a nearest relative. I will consider these three prescribed classes of individuals below.

[25] The first question under s. 5(1) of the Regulation is whether there was a committee acting under s. 24 of the *Patients Property Act* for the Deceased. The *Patients Property Act* regulates the management of an individual's estate when that individual qualifies as a "patient" as defined in s. 1 of that Act.¹⁹ If the person qualifies as a patient, then the Court may appoint a committee to manage the patient's affairs. In this case, the Hospital says there is no evidence the Deceased had a committee. The Applicant did not agree with or dispute what the Hospital says about this matter. Based on the materials before me, I am unable to conclude the Deceased had a committee acting for them under s. 24 of the *Patients Property Act*.

[26] The next question under s. 5(1) of the Regulation is whether the Deceased has a personal representative. The term "personal representative" is

¹⁶ For example, Order F18-08, 2018 BCIPC 10 (CanLII) at para. 10.

¹⁷ Order F18-08, 2018 BCIPC 10 (CanLII) at para. 10.

¹⁸ Section 76(2)(h) of FIPPA.

¹⁹ *Patients Property Act*, RSBC 1996, c 349. For a detailed discussion about a committee's responsibilities and functions, see Order F07-21, 2007 CanLII 52746 (BCIPC) at paras. 19-22.

not defined in FIPPA. However, the *Interpretation Act* defines the term “personal representative” to include “an executor of a will and an administrator with or without will annexed of an estate”²⁰ The Hospital says there is no evidence the Deceased has a personal representative. The Applicant made no submissions about whether the Deceased has a personal representative. Based on the materials before me, I am unable to conclude the Deceased has a personal representative.

[27] Where there is no evidence of a committee acting for the deceased individual or that the deceased individual has a personal representative, then an appropriate person under s. 5(1) of the Regulation may be the nearest relative of the deceased individual. The term “nearest relative” is defined under s. 5 of the Regulation. The definition lists, in order of priority, who may qualify as the nearest relative if they are willing and able to act for the deceased individual. The first individual given priority in this list is the spouse of the deceased at the time of death. The Hospital suggests the Deceased may have been “widowed.”²¹ The Applicant did not address whether this is in fact true; however, there is information in the disputed records that persuades me that the Deceased did not have a spouse at their time of death.²²

[28] If there is no spouse, then an adult child of the deceased may qualify as the nearest relative. Both the Hospital and the Applicant say the Applicant is the nearest relative of the Deceased because the Applicant is the Deceased’s adult child. However, the evidence indicates the Deceased has two surviving adult children, one of whom is the Applicant and the other is the Sibling.²³ Where more than one person qualifies as the deceased individual’s adult child, s. 5(4) dictates that the right to exercise the deceased individual’s access rights under s. 5 of FIPPA passes to the eldest person and descends in order of age to the next adult child who is willing and able to act.

[29] In this case, the Sibling is the eldest of the Deceased’s adult children. However, I have no evidence that the Sibling is willing and able to act for the Deceased. Instead, the evidence indicates the Sibling authorized the Hospital to release the requested records to the Applicant.²⁴ Therefore, the Sibling clearly knew the Applicant was seeking access to the requested records and did not object to the Applicant doing so. I was also not provided with any evidence or arguments to suggest the Deceased has other adult children who are older than the Applicant and who are willing and able to act for the Deceased under s. 5 of

²⁰ *Interpretation Act*, RSC 1996, c. 283, s. 1 (definition of “personal representative”).

²¹ Hospital submission dated June 27, 2025 at para. 13.

²² Information located on p. 24 of the records.

²³ Applicant’s access request dated January 1, 2024.

²⁴ *Ibid.*

FIPPA. Instead, the Applicant has indicated that they are the second oldest of the Deceased's adult children.²⁵

[30] Considering all the above, I conclude the Applicant is the Deceased's nearest relative and is, therefore, an appropriate person to act for the Deceased under s. 5 of FIPPA.

Is the Applicant acting “on behalf of” the deceased individual?

[31] Having found the Applicant is an appropriate person to exercise the Deceased access rights under FIPPA, I must now decide whether the Applicant's access request was made on behalf of the Deceased in accordance with s. 5(1)(b) of FIPPA and based on how that provision has been interpreted by past orders.

[32] While the phrase “acting on behalf of” under s. 5(1)(b) is not defined in FIPPA, previous OIPC orders have interpreted that phrase to mean the appropriate person must be acting to benefit the other individual, to further that individual's goals and objectives, and to act in the other individual's best interests.²⁶ When an access applicant is seeking the disputed records to further their own interests, then they are not acting on behalf of the deceased as required under s. 5(1)(b) of FIPPA.²⁷

[33] To determine whether an appropriate person is acting on behalf another person in accordance with s. 5(1)(b), an access applicant's motives for making the request are relevant, and those reasons may be evident from their access request, their inquiry submissions or in correspondence between the parties related to the access request.²⁸

[34] In the present case, the Applicant says they are seeking access to the requested records to understand the medical care the Deceased received at the Hospital. The Applicant says they are interested in getting their parent's hospital records to understand why their parent died suddenly after being admitted three days earlier.²⁹ The Applicant believes the records will give them and their family closure over the Deceased's death.

[35] Citing two previous OIPC orders, the Applicant argues the OIPC has recognized that access to a deceased person's records may be appropriate where the access applicant is pursuing “a legitimate familial or legal interest,

²⁵ Applicant's request for review to the OIPC dated January 14, 2024.

²⁶ For example, Order F17-04, 2017 BCIPC 4 (CanLII) at para. 17 and Order F18-08, 2018 BCIPC 10 (CanLII) at para. 13.

²⁷ Order F17-04, 2017 BCIPC 4 (CanLII) at para. 20.

²⁸ Order F24-05, 2024 BCIPC 7 (CanLII) at para. 23, also cited in Hospital's submission dated June 27, 2025 at para. 16.

²⁹ Applicant's request for review to the OIPC dated January 14, 2024.

especially relating to health care and accountability.”³⁰ The applicant says their access request is not motivated by any “personal gain, legal action or curiosity” but to ensure the Deceased’s “dignity and well-being were respected, and to understand what happened in those final days.”³¹ Citing a Supreme Court of Canada decision, the Applicant submits “a patient’s right to access medical records is grounded in dignity, autonomy, and transparency” and those values and the patient’s right of access should extend to family members who act with “compassion and care.”³²

[36] The Applicant also distinguishes their circumstances from past OIPC orders that have found the access applicant was seeking access to a deceased individual’s personal information for their own self-interest. The Applicant says those other “applicants were motivated by disputes, inheritance, or personal legal interests”, whereas the Applicant states they are not involved in any estate dispute, legal conflict, or action against the Hospital.³³ Instead, the Applicant submits their interests are aligned with the Deceased’s interests because the Applicant believes the Deceased would have wanted transparency about the health care they received and for the Deceased’s family to be informed about that care.

[37] The Hospital submits the Applicant’s stated reasons for making their access request proves the Applicant is not acting on behalf of the Deceased. Citing several past OIPC orders, the Hospital argues access requests that are motivated by an access applicant’s desire to understand or make sense of a deceased’s medical history or treatments prior to death and to seek closure is insufficient to show the applicant is “acting on behalf of” the deceased.³⁴ The Hospital argues the Applicant needs to, and has failed to, connect their desire for answers and closure with the Deceased’s personal interests or the Deceased’s goals and objectives. Therefore, the Hospital contends the Applicant is not acting on behalf of the Deceased as required under s. 5(1)(b) of FIPPA and as interpreted by past OIPC orders.

[38] I accept the Applicant is genuinely interested in seeking access to the disputed records to get answers about the Deceased’s care, to understand the cause of their parent’s death, to hold others accountable if necessary, and to obtain closure for them and their family. The Applicant’s reasons for requesting access are understandable given the circumstances and I have great sympathy

³⁰ Applicant’s submission dated July 15, 2025 at p. 1, citing Order 02-44. The applicant cites another OIPC order from 2014 but does not provide a full citation for that order. My own search of past orders indicates the applicant may be referring to Order F14-32, 2014 BCIPC 35 (CanLII).

³¹ Applicant’s submission dated July 15, 2025 at p. 1.

³² Applicant’s submission dated July 15, 2025 at p. 3, citing *McInerney v. MacDonald*, 1992 CanLII 57 (SCC), [1992] 2 SCR 138.

³³ Applicant’s submission dated July 15, 2025 at p. 2.

³⁴ Hospital’s submission dated July 18, 2025 at para. 10, citing for example, Order F24-85, 2024 BCIPC 97 (CanLII) at para. 23.

for their loss and for the ordeal that the Applicant and their family are now experiencing. However, as noted by the Hospital, those reasons and goals alone are not enough to prove an access applicant is acting on behalf of the deceased individual under s. 5(1)(b) of FIPPA.³⁵

[39] In considering similar arguments, past OIPC orders have said there needs to be evidence that the deceased individual shared the access applicant's goals and purposes while they were alive.³⁶ In this case, I do not have any evidence that shows the Deceased was concerned about the quality of care that they received at the Hospital or that the Deceased wanted the Applicant to investigate that care and their treatment. There is no persuasive evidence that the Deceased was pursuing accountability or transparency about their health care or asked the Applicant to pursue those goals on their behalf. It is also not apparent to me that the Applicant's access request would be in the Deceased's best interests or otherwise benefit the Deceased.

[40] I also find the two OIPC orders cited by the Applicant do not support the Applicant's position. One of those orders found the access applicant was not acting on behalf of the deceased individual after considering and rejecting arguments like the ones made by the Applicant.³⁷ The adjudicator in the other order did not find it necessary to consider whether the access applicant was acting on behalf of the deceased individual because they had already determined that the public body was required to withhold the information at issue under s. 22(1).³⁸ Therefore, I am not persuaded that past OIPC orders have taken a different approach to s. 5(1)(b) of FIPPA, as argued by the Applicant.

[41] I recognize the Applicant may find the OIPC's interpretation of s. 5(1)(b) of FIPPA frustrating and disappointing; however, this interpretation recognizes that a deceased individual still has privacy rights under FIPPA.³⁹ It is also consistent with the purpose of s. 5 of the Regulation which has been described as "to ensure that the privacy of individuals is protected, and, to that end, when an individual's right to access her or his personal information is exercised by another person in circumstances where the individual is incapable of doing so, it is exercised in a manner consistent with the individual's best interests."⁴⁰

³⁵ Order F24-85, 2024 BCIPC 97 (CanLII) at para. 23 and Order 02-44, 2002 CanLII 42478 (BC IPC) at paras. 32-39.

³⁶ Order F25-28, 2025 BCIPC 34 (CanLII) at para. 49, and the orders cited there.

³⁷ Order 02-44, 2002 CanLII 42478 (BC IPC) at paras. 37 and 39.

³⁸ Order F14-32, 2014 BCIPC 35 (CanLII) at para. 51.

³⁹ Order 00-11, 2000 CanLII 10554 (BCIPC) noted that "It is clear from various of the Act's provisions that it protects the privacy of the deceased." For example, I note that provisions related to a deceased individual are found under ss. 22(2)(i), 33(4)(b) and 33(5)(b) of FIPPA.

⁴⁰ Order F07-21, 2007 CanLII 52746 (BCIPC) at para. 27, although this order discusses a prior version of what is now s. 5 of the Regulation, I find that discussion equally applicable to the current version of FIPPA and s. 5 of the Regulation.

[42] Ultimately, based on the materials before me, I am unable to conclude that the Applicant's motives for seeking access and the disclosure of the disputed records to the Applicant would be in the Deceased's best interests or for their benefit or would further the Deceased's goals and objectives.

Conclusion on acting on behalf of a deceased individual

[43] While I found the Applicant is an appropriate person pursuant to s. 5 of the Regulation, I find the Applicant has not established that they are acting on behalf of the Deceased in accordance with s. 5(1)(b) of FIPPA and as interpreted by past OIPC orders.

Unreasonable invasion of third-party personal privacy – s. 22

[44] Section 22(1) of FIPPA requires a public body to refuse to disclose personal information that would unreasonably invade a third-party's personal privacy. 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.

[45] I found the Applicant is not acting on behalf of the Deceased in exercising the Deceased's access rights under FIPPA. Therefore, the Deceased would qualify as a third party under FIPPA and the Applicant's request for records is treated as a request for access to records related to a third party. This does not mean, however, that the relationship between the Applicant and the Deceased is irrelevant. The s. 22 analysis considers the impact of disclosing the personal information at issue in light of all relevant circumstances, which may include considering the relationship between the Applicant and the Deceased.

[46] With that in mind, I will now consider under s. 22 whether disclosure of the information at issue would be an unreasonable invasion of the Deceased's personal privacy or another third party's personal privacy. Numerous OIPC orders have considered the application of s. 22 and I will apply the same approach in this inquiry. I will explain that approach in my discussion and analysis below.

Personal information

[47] Section 22 applies only to personal information; therefore, the first step in the s. 22 analysis is to determine if the information at issue is personal information. As previously noted, the Hospital has the burden of proving the information at issue qualifies as personal information.

[48] "Personal information" is defined in Schedule 1 of FIPPA as "recorded information about an identifiable individual other than contact information."

Information is about an identifiable individual when it is reasonably capable of identifying a particular individual, either alone or when combined with other available sources of information.

[49] “Contact information” is defined in Schedule 1 of FIPPA 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.” Whether information will qualify as contact information under s. 22 depends on the context in which the information appears in the records.⁴¹

[50] The Hospital says the information it withheld in the disputed records is personal information because it is about the Deceased who is an identifiable third party. The Applicant’s submission does not address whether the information in dispute is personal information, but recognizes the Hospital is arguing that disclosure would be an unreasonable invasion of the Deceased’s personal privacy.⁴²

[51] I find most of the information at issue is about the Deceased, which is recorded on hospital forms, reports and charts, and includes their name and other identifying details such as their birthdate, address, age, gender and personal health number. A small amount of the redacted information consists of instructions for filling out certain hospital forms or guidelines related to various tests and assessments.⁴³ Although this information does not reveal the specific results of the relevant tests and assessments, I find disclosing this information would reveal what type of care, tests and assessments the Deceased experienced during their hospital stay; therefore, I am satisfied it is about the Deceased. I also find none of the redacted information about the Deceased qualifies as contact information as defined in FIPPA and interpreted by past OIPC orders. Therefore, I am satisfied most of the redacted information is the Deceased’s personal information under FIPPA.

[52] The Hospital also withheld information that is about individuals other than the Deceased, specifically information about the Sibling, Hospital staff and health care professionals. Some of those individuals are identified by name or there is information that is directly linked to those individuals on its own or combined with other information such as job titles, usernames, initials, signatures and identification numbers, as well as descriptive information about their activities or assessments related to the Deceased.⁴⁴ I also note that some of the redacted information is about the Applicant, which includes conversations the Applicant

⁴¹ Order F21-35, 2021 BCIPC 43 (CanLII) at para. 164.

⁴² Applicant’s submission dated July 15, 2025 at p. 2.

⁴³ Information located on pp. 6, 10, 60, 62, 92, 124 and 131-132 of the records.

⁴⁴ For example, information located on pp. 63-65, 66-68 and 69-71 of the records.

had with the Deceased's health care providers about the Deceased.⁴⁵ Therefore, I am satisfied some of the information in dispute is about other individuals or it is simultaneously about the Deceased and other identifiable individuals, including the Applicant.

[53] While some of the redacted information includes several health care provider's names and job titles, I find this redacted information was not used or provided for work contact purposes. In Order F24-85, Adjudicator Shamas considered similar information and concluded it was not contact information because "...the names are found in notes and records those professionals prepared about the deceased's medical care."⁴⁶ Considering that context, Adjudicator Shamas found "...the names were provided to identify the professional who provided the care or opinion, not for contact purposes."⁴⁷ I agree with that reasoning and find it also applies here. The names and job titles at issue here are found within various assessments and forms related to the Deceased's medical care and were provided to identify who provided the care or assessment or filled out the forms. Therefore, I find the names and job titles of several health care providers identified in the disputed records is not contact information under FIPPA.

[54] However, the Hospital has withheld some template information in a few blank forms that does not contain any information about an identifiable individual.⁴⁸ Given the generic nature of the redacted information, I am satisfied these forms would be a part of any Hospital patient's file and does not reveal any information about the Deceased or any other individual.⁴⁹ Therefore, I find some of the redacted information on these blank forms is not personal information under FIPPA.

[55] For all those reasons, I am satisfied that almost all the information at issue in this inquiry is personal information under FIPPA.

Section 22(4) – disclosure not an unreasonable invasion

[56] The second step in the s. 22 analysis is to determine if the personal information falls into any of the types of information or circumstances listed in s. 22(4). If it does, then the disclosure of the personal information is not an unreasonable invasion of a third party's personal privacy, and the information cannot be withheld under s. 22(1).

⁴⁵ For example, information located on pp. 2, 24-25 and 64 of the records.

⁴⁶ Order F24-85, 2024 BCIPC 97 (CanLII) at para. 40.

⁴⁷ *Ibid.*

⁴⁸ Information redacted on pp. 73, 93 and 103 of the records.

⁴⁹ For a similar conclusion, see Order F23-92, 2023 BCIPC 108 (CanLII) at para. 41.

[57] The Hospital submits none of the provisions under s. 22(4) apply. The Applicant did not identify any s. 22(4) provisions that may be relevant. I have reviewed the provisions under s. 22(4) and, based on the materials before me, I find the provisions relevant for this inquiry are ss. 22(4)(a) and 22(4)(e). I will discuss those provisions below.

Consent for the disclosure – s. 22(4)(a)

[58] Section 22(4)(a) states it is not an unreasonable invasion of a third party's personal privacy to disclose personal information if the third party has, in writing, consented to or requested the disclosure.

[59] A small amount of the information redacted in the disputed records is about the Sibling.⁵⁰ The evidence indicates the Sibling authorized the Hospital to release the requested records to the Applicant.⁵¹ However, what is not evident to me is whether the Sibling knew the Deceased's medical and hospital records contained their personal information and whether the consent that they provided to the Hospital includes the disclosure of their personal information to the Applicant. Therefore, I am unable to conclude the requirements of s. 22(4)(a) are met regarding the Sibling's personal information.

A public body employee's position or functions – s. 22(4)(e)

[60] Section 22(4) states the disclosure of personal information about a third party's position, functions or remuneration as an officer, employee or member of a public body is not an unreasonable invasion of the third party's personal privacy.

[61] Previous OIPC orders have found that s. 22(4)(e) applies to information that reveals a public body employee's name, job title, duties, functions, remuneration (including salary and benefits) or position.⁵² Section 22(4)(e) has also been found to apply to information that relates to a public body employee's job duties in the normal course of work-related activities, namely objective, factual information about what the individual did or said in the course of discharging their job duties.⁵³

[62] Whether s. 22(4)(e) applies in a particular case, however, depends on the context in which the information at issue appears in the records. Section 22(4)(e) does not apply where the information at issue appears in a context that reveals more than just the third party's name, job title, duties, functions, remuneration,

⁵⁰ Information located on pp. 1, 4, 5, 7 and 22 of the records.

⁵¹ Applicant's access request dated January 1, 2024.

⁵² For example, Order F20-54, 2020 BCIPC 63 (CanLII) at para. 56 and footnote 45.

⁵³ Order 01-53, 2001 CanLII 21607 at para. 40 and Order F18-38, 2018 BCIPC 41 (CanLII) at para. 70.

position or what they did in the normal course of their work or activities as a public body officer, employee or member.⁵⁴

[63] Some of the information redacted by the Hospital reveals several public body employees' names, job titles or positions, or describes what they did and said in the normal course of their work activities.⁵⁵ However, in the context of those records, I find revealing the public body employees' names, job titles or their activities would also reveal information about the Deceased such as the type of care, tests and assessments the Deceased experienced during their hospital stay. Therefore, I am satisfied this information reveals more than just a public body employee's name, job title and their activities. As a result, I conclude s. 22(4)(e) does not apply to that information.

Section 22(3) – disclosure presumed to be an unreasonable invasion

[64] The third step in the s. 22 analysis is to determine whether any of the presumptions set out in s. 22(3) apply. Section 22(3) creates a presumption that the disclosure of certain types of personal information or in certain circumstances would be an unreasonable invasion of third-party personal privacy. These presumptions can be rebutted in the later stage of the s. 22 analysis.

[65] The Hospital submits the presumption under s. 22(3)(a) applies. I have considered the other presumptions under s. 22(3) and find s. 22(3)(d) is also relevant in this case. The parties did not identify any other s. 22(3) presumptions that may apply and I am satisfied there are no other s. 22(3) presumptions that may be relevant. I will consider ss. 22(3)(a) and 22(3)(d) below.

Medical history, diagnosis, condition, treatment or evaluation – s. 22(3)(a)

[66] Section 22(3)(a) states 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 a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation.

[67] The Hospital submits the presumption under s. 22(3)(a) applies because the information that it redacted clearly relates to the Deceased's "medical history, diagnoses, conditions, or treatment."⁵⁶ The Applicant did not dispute the Hospital's arguments about s. 22(3)(a), except to say the presumption is rebutted.

[68] I agree with the Hospital that most of the information redacted in the records relates to the Deceased's medical history, diagnosis, condition, treatment

⁵⁴ Order F23-28, 2023 BCIPC 32 (CanLII) at para. 42.

⁵⁵ For example, information redacted on pp. 68 and 71 of the records.

⁵⁶ Hospital's submission dated June 27, 2025 at para. 23.

or evaluation. This information was recorded or created when the Deceased was admitted to the Hospital and when they were evaluated and treated by several health care providers. Therefore, I conclude the disclosure of this information is presumed to be an unreasonable invasion of the Deceased's personal privacy under s. 22(3)(a). I will address the Applicant's argument that the presumption is rebutted later in my s. 22 analysis.

Employment or occupational history – s. 22(3)(d)

[69] Section 22(3)(d) states 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 a third party's employment, occupational or educational history.

[70] Some of the redacted information reveals the identification number of several health care providers, including Hospital employees, pharmacists and physicians.⁵⁷ The Hospital has also redacted the usernames of several Hospital employees, which is made up of a unique combination of letters derived from the employee's name.⁵⁸

[71] Previous OIPC orders have found that a person's employee number or work-related personal identifier relates to a person's employment history under s. 22(3)(d) and that other unique work-related identifiers such as physician identification numbers relate to a person's occupational history under s. 22(3)(d).⁵⁹

[72] Consistent with past orders, I conclude that s. 22(3)(d) applies to the identification numbers and usernames of several Hospital employees since it is an individual, personal identifier assigned to those employees and used by them as part of their employment. Therefore, I conclude this work-related personal identifier is a part of their employment history and its disclosure is presumed to be an unreasonable invasion of third-party personal privacy under s. 22(3)(d).

[73] I also find s. 22(3)(d) applies to the identification numbers of several health care providers, including a pharmacist and several physicians because those numbers are unique personal identifiers that were assigned to those individuals as part of their registration with the regulatory body that governs their profession. Therefore, I conclude this personal identifier is a part of their occupational history and its disclosure is presumed to be an unreasonable invasion of those third parties' personal privacy under s. 22(3)(d).

⁵⁷ For example, information located on pp. 1, 2, 30, 36, 37, 38, 42, 43, 48, 52, 65, 68, 70 and 71 of the records.

⁵⁸ Information located on pp. 27, 48, 49, 50, 51 and 52 of the records.

⁵⁹ Order F21-35, 2021 BCIPC 43 (CanLII) at para. 189 and Order F23-14, 2023 BCIPC 16 (CanLII) at para. 87 and the orders cited there.

Section 22(2) – relevant circumstances

[74] The final step in the s. 22 analysis is to consider the impact of disclosing the personal information at issue in light of all relevant circumstances. Section 22(2) requires a public body to consider the circumstances listed under ss. 22(2)(a) to (i) and any other relevant circumstances to determine whether disclosing the personal information at issue would be an unreasonable invasion of a third party's personal privacy. One or more of these circumstances may rebut the presumptions, under ss. 22(3)(a) or 22(3)(d), that I found applies to some of information redacted in the records.

[75] The Hospital submits s. 22(2)(i) is a relevant circumstance that weighs in favour of withholding the information at issue. On the other hand, the Applicant submits ss. 22(2)(a), 22(2)(b), 22(2)(c) and 22(2)(i) rebut any s. 22(3) presumptions and weigh in favour of disclosure.

[76] I have considered whether there are any other circumstances, including those listed under s. 22(2), that may apply. When considering whether s. 22(1) applies to the personal information of a deceased individual, previous OIPC orders have considered factors that are not usually considered in other circumstances such as the applicant's purpose or motive for wanting the information, as well as their pre-existing knowledge of the information.⁶⁰ In Order F14-09, Adjudicator Alexander said, "considering these factors in the context of these kinds of cases recognizes the fact that a deceased person cannot consent to disclosure. It also attempts to meet the needs of family members to deal with the death and its consequences, balanced against the risk of an unreasonable invasion of the deceased's privacy."⁶¹ I agree with this approach.

[77] Other OIPC orders have also considered the sensitivity of the deceased individual's personal information, the fact that some of the redacted information is about the access applicant, and the access applicant's relationship to the deceased individual. I find all those factors are relevant to consider here. As discussed earlier in this order, I also find a relevant circumstance to consider is that some of the redacted information is about the Sibling who has authorized the release of the disputed records to the Applicant. I will consider all those circumstances below in my s. 22(2) analysis, starting with the s. 22(2) circumstances identified by the parties.

⁶⁰ For example, Order F14-32, 2014 BCIPC 35 (CanLII) at paras. 38-39 and Order F14-09, 2014 BCIPC 11 (CanLII) at paras. 35-40.

⁶¹ Order F14-09, 2014 BCIPC 11 (CanLII) at para. 36.

Subjecting a public body's activities to public scrutiny – s. 22(2)(a)

[78] Section 22(2)(a) considers whether disclosing the personal information is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny. Where disclosure would foster the accountability of a public body, then this may be a relevant circumstance that weighs in favour of disclosing the information at issue.⁶²

[79] The Applicant submits disclosing the records would allow for meaningful public scrutiny of medical care delivered at a public hospital. The Applicant contends the disclosure of the redacted information is a matter of public concern because “Trust in health care institutions depends on the ability of families to review and understand how their loved ones were treated.”⁶³ However, the Hospital disputes the relevance of s. 22(2)(a) and argues the Applicant has not explained how disclosing the redacted information would fulfill the purpose of s. 22(2)(a).

[80] For the reasons that follow, I am not persuaded the disclosure of the redacted information is desirable for subjecting the activities of a public body to public scrutiny. Most of the redacted information is about the treatment, assessments and care that the Deceased received during their hospital stay. None of this information appears to be of public concern or public significance, as argued by the Applicant, nor is it apparent how disclosing this information would assist in holding the Hospital or another public body accountable for its actions.

[81] The Applicant seems to suggest the records may show the Hospital's care and treatment of the Deceased was inadequate or below normal standards. However, it is not apparent to me that the redacted information shows any evidence of wrongdoing on the part of the Hospital about the Deceased's care or that would require public scrutiny. Moreover, previous OIPC orders have also considered and rejected similar arguments about s. 22(2)(a) when it comes to information about a deceased individual and allegations of wrongdoing.⁶⁴

[82] As well, in Order 02-44, former Commissioner Loukidelis said even if the information disclosed negligence on the part of the public body's staff, he did not agree that “evidence of negligence *in that one case* would fit within s. 22(2)(a) or s. 22(2)(b).”⁶⁵ I was not provided with any persuasive evidence or arguments that would warrant reaching a different conclusion about the information at issue here. It may be that disclosing the hospital experience of one deceased individual would be desirable for subjecting the activities of a public body or the BC

⁶² Order F05-18, 2005 CanLII 24734 at para. 49.

⁶³ Applicant's submission dated July 15, 2025 at p. 2.

⁶⁴ Order F14-43, 2014 BCIPC 46 (CanLII) at paras. 30-31, citing Order 02-44, 2002 CanLII 42478 (BC IPC).

⁶⁵ Order 02-44, 2002 CanLII 42478 (BC IPC) at para. 49, my emphasis.

government to public scrutiny, but I do not find it to be the case here. Ultimately, for the reasons given, I do not find s. 22(2)(a) is a factor that weighs in favour of disclosure.

Promotion of public health and safety – s. 22(2)(b)

[83] Section 22(2)(b) considers whether the disclosure is likely to promote public health and safety or to promote the protection of the environment. If so, then this would be a factor that favours disclosure of the information at issue.

[84] The Applicant submits disclosure may help identify issues in care and promote better health and safety outcomes. However, the Hospital disputes the relevance of s. 22(2)(b) and argues the Applicant has not explained how disclosing the redacted information would fulfill the purpose of s. 22(2)(b).

[85] Having reviewed the disputed records, I do not see how disclosure of the personal information in those records is likely to promote public health and safety, as argued by the Applicant. Most of the redacted information is about the Deceased's care and treatment and none of it relates to issues involving public health and safety.

[86] The Applicant suggests the Hospital may have redacted information that reveals issues with the Deceased's care and, therefore, the Applicant argues disclosure would promote better health and safety outcomes. However, it is not apparent to me that the redacted information shows any issues with the Deceased's care and treatment. Moreover, as previously noted, previous OIPC orders have also considered and rejected similar arguments about the relevance of s. 22(2)(b) when it comes to information about a deceased individual and allegations of negligence or wrongdoing.⁶⁶ Similar to those previous orders, I do not see the connection between the disclosure of the specific information at issue here and the promotion of public health and safety. Ultimately, I am not persuaded that the disclosure of the information at issue is likely to promote public health and safety or to promote the protection of the environment. I find s. 22(2)(b) is not a relevant circumstance that weighs in favour of disclosure.

Fair determination of the applicant's rights – s. 22(2)(c)

[87] Section 22(2)(c) applies to personal information that is relevant to a fair determination of the applicant's rights. Previous OIPC orders have said that all four parts of the following test must be met for s. 22(2)(c) to apply:

⁶⁶ Order F14-43, 2014 BCIPC 46 (CanLII) at paras. 30-31 and Order 02-44, 2002 CanLII 42478 (BC IPC) at para. 49.

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.⁶⁷

[88] The Applicant submits s. 22(2)(c) favours disclosure in this case because “As next of kin, I have a personal right to understand the care provided to my [parent] before [their] death.”⁶⁸ However, the Hospital says the Applicant has not provided evidence to establish that s. 22(2)(c) favours disclosure of the personal information at issue in this inquiry.

[89] Based on the materials before me, I am not satisfied the test under s. 22(2)(c) has been met. The Applicant argues they have a personal right to understand the care given to the Deceased; however, s. 22(2)(c) requires the right in question be a legal right drawn from the common law or a statute. It is unclear what legal right of the Applicant is at issue here and there is no evidence that a proceeding is being contemplated or is already underway related to any legal right. It is also unclear how the information at issue under s. 22 has any significance for the determination of any legal right or how it is necessary to prepare or ensure a fair hearing. In short, considering the materials before me, there is simply insufficient evidence or explanation for me to conclude that all four parts of the s. 22(2)(c) test have been met. I, therefore, find s. 22(2)(c) is not a factor in favour of disclosure.

Information about a deceased person – s. 22(2)(i)

[90] Section 22(2)(i) considers whether the information is about a deceased person, and if so, whether the length of time the person has been deceased indicates that the disclosure of their personal information would not be an unreasonable invasion of the deceased individual’s personal privacy.

⁶⁷ For example, Order 01-07, 2001 CanLII 21561 at para. 31.

⁶⁸ Applicant’s submission dated July 15, 2025 at p. 2.

[91] The Applicant submits s. 22(2)(i) favours disclosure in this case because of the recentness of their parent's death and their role as the Deceased's child who is seeking access "solely for closure."⁶⁹

The Hospital notes that the Deceased passed away in December 2023 and argues this is not enough time for s. 22(2)(i) to weigh in favour of disclosure of the Deceased's personal information.

[92] Section 22(2)(i) recognizes that deceased individuals have privacy rights, although those rights may diminish with time, and the degree to which it does may vary based on the particular circumstances.⁷⁰ Unlike other Canadian jurisdictions, BC's FIPPA does not specify the length of time after which a deceased individual's privacy rights can be considered diminished or when disclosure of the deceased's personal information would no longer be an unreasonable invasion of their personal privacy.⁷¹

[93] Relying on the approach taken in other Canadian jurisdictions, previous OIPC orders have found that an individual's personal privacy rights are likely to continue for at least 20 years past their death.⁷² On the other hand, other OIPC adjudicators have cautioned against relying on what other Canadian jurisdictions have specified in their legislation noting that "the statutory lengths of these timeframes across Canada are instructive—although not determinative—for the purposes of FIPPA in British Columbia."⁷³ Specifically, other OIPC orders have concluded that the assessment under s. 22(2)(i) depends on the specific circumstances of each case and "it is not a simple matter of the number of years" that have passed.⁷⁴

[94] I agree that the assessment under s. 22(2)(i) depends on the specific circumstances of each case. However, I find a useful benchmark is the approach taken by past OIPC orders that have concluded it will usually not be an unreasonable invasion of a deceased person's personal privacy to disclose their personal information if the person has been dead for at least 20 years or more. I find this approach is consistent with ss. 33(4)(b) and 33(5)(b) of FIPPA which allows the disclosure of personal information for certain purposes and under certain conditions when "the information is about an individual who has been

⁶⁹ Applicant's submission dated July 15, 2025 at p. 2.

⁷⁰ Order F22-42, 2022 BCIPC 47 (CanLII) at para. 51 and Order F15-36, 2015 BCIPC 39 (CanLII) at para. 29.

⁷¹ Order F14-09, 2014 BCIPC 11 (CanLII) at para. 33 and footnote 18 which discusses the timeframes set out in other Canadian jurisdictions.

⁷² Order F24-85, 2024 BCIPC 97 (CanLII) at para. 58 and the orders cited there.

⁷³ Order F14-32, 2014 BCIPC 35 (CanLII) at para. 36 and Order F14-09, 2014 BCIPC 11 (CanLII) at para. 33.

⁷⁴ Order F12-08, 2012 BCIPC 12 (CanLII) at para. 42 and Order F22-42, 2022 BCIPC 47 (CanLII) at para. 51.

deceased for 20 or more years.”⁷⁵ Moreover, this approximate timeframe is consistent with several OIPC orders that have found it would not be an unreasonable invasion of a deceased person’s personal privacy to disclose their personal information if the person has been dead between 18 to 42 years.⁷⁶ Therefore, subject to the specific circumstances of each case, I conclude it would not typically be an unreasonable invasion of a deceased person’s personal privacy under s. 22(2)(i) when approximately 20 years has passed since the person’s death.

[95] In the present case, the Deceased passed away less than two years ago. Several past OIPC orders have found s. 22(2)(i) does not apply when the deceased individual has been dead for approximately two years.⁷⁷ I generally agree that this short length of time since the Deceased’s death usually means the Deceased’s privacy rights under FIPPA have not diminished to such a degree that there are no longer any privacy concerns about disclosing the Deceased’s personal information. I also find there is nothing about the specific circumstances of this case that would warrant reaching a different conclusion about the information at issue here. As a result, I find that s. 22(2)(i) does not weigh in favour of disclosing the Deceased’s personal information.

Applicant’s motives for requesting the Deceased’s personal information

[96] The Applicant explains they are seeking access to the Deceased’s records because they and their family have unanswered questions about the Deceased’s care and about the cause of their death and are seeking closure, transparency and accountability regarding the Deceased’s care and death. The Applicant notes that they are “not seeking to expose sensitive details to others” and that they are “pursuing this request with respect and intention, not for gain or conflict.”⁷⁸

[97] Previous OIPC orders have found that an access applicant’s motives are legitimate and understandable and weigh in favour of disclosure when the access applicant is seeking information to deal with the aftermath of a family member’s

⁷⁵ A previous version of s. 33(4)(b) was also discussed and considered in Order F14-09, 2014 BCIPC 11 (CanLII) at para. 30, where Adjudicator Alexander concluded: “In my view, this provision means that it is at least possible for privacy rights to continue for 20 years or more after a person dies, since s. 36(1)(c) would otherwise be unnecessary.”

⁷⁶ Order F15-36, 2015 BCIPC 39 (CanLII) at para. 30, citing Order F14-32, 2014 BCIPC 35 (CanLII) which was about 34 years and Order F12-08, 2012 BCIPC 12 (CanLII) which was about 18 years and Order F14-09, 2014 BCIPC 11 (CanLII) which was about 42 years.

⁷⁷ Order F23-92, 2023 BCIPC 108 (CanLII) at paras. 62-63 and Order F15-36, 2015 BCIPC 39 (CanLII) at paras. 29-30, and the other orders cited there.

⁷⁸ Applicant’s submission dated July 15, 2025 at p. 2.

death, including to find closure, or to better understand the circumstances surrounding the death or to hold the public body accountable.⁷⁹

[98] Consistent with past OIPC orders, I find the fact that the Applicant and their family have unresolved questions and concerns about the Deceased's care and cause of death and are seeking closure is a factor that weighs in favour of disclosure.

Applicant's knowledge about the information at issue

[99] The Applicant notes they were involved in "Conversations, updates and decisions during the [Deceased's] care" and respectfully requests that "the records be assessed with this in mind."⁸⁰ From this statement, I understand the Applicant is arguing that they already know some of the information at issue.

[100] An applicant's knowledge of the personal information at issue may be a factor that weighs in favour of disclosure where there is evidence, or the circumstances indicate, that an access applicant already knows or likely knows the information at issue.⁸¹

[101] I find the Hospital redacted some information in the disputed records which the Applicant already knows or would likely already know given the Applicant's involvement in the Deceased's life and care.⁸² In some cases, the Applicant was explicitly told that information by a health care provider, completed some forms on the Deceased's behalf and was present at the Hospital with the Deceased when certain assessments took place and when some of the medical records were created.

[102] As one example, the Hospital redacted information in a record that reveals information about the Deceased, including their medical history, and would also reveal a health care provider's identity and their assessment about matters related to the Deceased, including the Deceased's condition and proposed treatment plan. However, the Hospital disclosed the following statement made by the health care provider in that record: "I spoke with [Applicant], and [Applicant] is well involved in the patient's care and [Applicant] is updated regarding all above."⁸³ This statement satisfies me that the health care provider discussed the redacted information about the Deceased in this record with the Applicant and

⁷⁹ For example, Order 00-11, 2000 CanLII 10554 (BCIPC), Order F14-32, 2014 BCIPC 35 (CanLII) at paras. 39-41 and Order F24-05, 2024 BCIPC 7 (CanLII) at paras. 50-51 (and the orders cited there).

⁸⁰ Applicant's submission dated July 15, 2025 at p. 3.

⁸¹ For example, Order F23-13, 2023 BCIPC 15 (CanLII) at para. 184 and Order F17-05, 2017 BCIPC 6 (CanLII) at paras. 54-60.

⁸² Information located on pp. 1, 2, 3, 4, 17, 18, 19, 23-26, 34, 53-54, 63-65, 101-102 and 111 of the records.

⁸³ Information disclosed on p. 25 of the records.

that the Applicant would already know the identity of the health care provider because they personally interacted with them.

[103] In other cases, the Applicant was the source of the information or clearly knows the information based on their relationship with the Deceased and their involvement with the various assessments related to the Deceased's hospital stay. For example, the Hospital redacted the Deceased's name, age, address, birthdate, gender and personal health number and the name of the Deceased's family doctor wherever it appears in the disputed records. However, I am satisfied that the Applicant would already know this information because the records indicate the Applicant was "well involved" in the Deceased's care and in the Deceased's daily life.⁸⁴ The Applicant also provided the Deceased's personal health number as part of their access request to the Hospital, so the Applicant clearly already knows this information.

[104] As another example, the Hospital redacted information in several records that describes a health care provider's summary of their conversation with the Applicant about the Deceased.⁸⁵ The Hospital also redacted the name and occupation of those health care providers. I am satisfied that the Applicant clearly knows this information about the Deceased and knows the identity of the health care providers because the Applicant was the person who provided this information to the health care provider and personally interacted with them.

[105] It is, therefore, clear to me that the Applicant already knows some of the information that the Hospital redacted in the records which is about both the Applicant and the Deceased. Therefore, I find the Applicant's knowledge of some of the redacted information in the records is a significant factor in this case that favours disclosure of that information.

[106] I am aware of other OIPC orders that have lessened the weight given to this factor because, although the access applicant knew some of the information at issue, there was no evidence that "the world knows it and disclosure under FIPPA is disclosure to the world."⁸⁶ However, it is not apparent to me that those previous decision-makers considered the fact that an access applicant's pre-existing knowledge of the information at issue means the access applicant does not need the records to disclose this information to the world. An access applicant that already knows the information at issue is free to publicly disclose that information at anytime, with or without the records. Therefore, reducing the weight given to this factor does not minimize or eliminate the risk that the access applicant could decide to publicly disclose any of the disputed information

⁸⁴ Information disclosed on p. 25 of the records and information redacted on pp. 11, 18, 24, 53-54 and 63 of the records which satisfies me that the Applicant was involved in the Deceased's daily life.

⁸⁵ Information located on pp. 24-25 and 63-65 of the records.

⁸⁶ For example, Order F22-31, 2022 BCIPC 34 (CanLII) at para. 82.

already known to them. In my opinion, the relevance or weight given to this factor should depend on whether the evidence, records or circumstances indicate the access applicant knows the specific information at issue in the disputed records.

[107] I am also not convinced that the focus of the analysis should be on whether the public already knows the information at issue rather than what the access applicant specifically knows. Some of the factors listed under s. 22(2) expressly consider an applicant's knowledge rather than the general public's knowledge of the information. For example, s. 22(2)(c) considers whether the personal information is relevant to a fair determination of the applicant's rights. The analysis under s. 22(2)(c) necessarily involves considering information specific to the applicant and within their knowledge.

[108] I also note that an applicant's knowledge is inherent in some of the presumptions under s. 22(3) such as s. 22(3)(h)(ii) which considers whether the applicant could reasonably be expected to know the identity of the third party who confidentially supplied a personal recommendation or evaluation. It is, therefore, evident that an applicant's personal knowledge is factored into or embedded in the s. 22 analysis. In other words, the s. 22 analysis intentionally considers the specific knowledge and circumstances of the access applicant. Therefore, I find it is consistent with the overall analysis under s. 22 to consider an applicant's existing knowledge of the information at issue as a relevant circumstance under s. 22(2), rather than focusing the analysis on the general public's lack of knowledge about the information at issue.

[109] I also note that concerns such as the public disclosure of the information at issue and the impact of that disclosure is already addressed or inherent in the s. 22(2) analysis by considering, if relevant, whether: the disclosure would unfairly expose a third party to financial or other harm under s. 22(2)(e); the personal information was supplied in confidence under s. 22(2)(f); the personal information is likely to be inaccurate or unreliable under s. 22(2)(g); or the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant under s. 22(2)(h).

[110] The analysis under s. 22(2) is also not limited to the factors set out under s. 22(2) and the parties are free to identify any other relevant circumstances. For example, previous OIPC orders have found a relevant circumstance that favours disclosure is when the personal information at issue is known to the public or has become common public knowledge.⁸⁷ This factor has been considered separately from an applicant's existing knowledge.⁸⁸

⁸⁷ For example, Order 01-53, 2001 CanLII 21607 (BCIPC) at para. 77 and Order F16-52, 2016 BCIPC 58 (CanLII) at para. 83.

⁸⁸ Order F23-13, 2023 BCIPC 15 (CanLII) at paras. 216-218.

[111] Therefore, for all those reasons, I am not persuaded that the public's lack of knowledge about the redacted information should reduce the weight I give to this factor or that it should be the public's knowledge of the information at issue that is the focus of the analysis instead of the access applicant's existing knowledge of that information. In my opinion, the better approach is to consider an applicant's pre-existing knowledge as a factor separate from the possible public disclosure of the information at issue and then assess all the relevant circumstances and factors against each other to determine whether disclosure would be an unreasonable invasion of a third party's personal privacy.

Applicant's relationship to the Deceased

[112] In past OIPC orders involving requests for access to a deceased person's personal information, previous decision-makers have considered an access applicant's relationship to the deceased individual.⁸⁹ Where there is evidence the access applicant was involved in the deceased's individual's care or had a familial relationship with the deceased individual, then this factor weighs in favour of disclosure.⁹⁰

[113] In the present case, I find there is information in the disputed records that shows the Applicant was involved in the Deceased's care and in their daily life.⁹¹ This information and what the Applicant says in their submission also persuades me that the Applicant had a close familial relationship with the Deceased until the Deceased's death. There is also information in the records that shows the Applicant interacted and communicated with the Deceased's health care providers on the Deceased's behalf.⁹² Therefore, I find that the nature of the relationship between the Applicant and the Deceased weighs in favour of disclosure of the records.

Sensitivity of the personal information

[114] Past OIPC orders have considered the sensitivity of a deceased individual's personal information to determine whether the disclosure of this information would be an unreasonable invasion of the deceased's personal privacy.⁹³ Where the information is sensitive, previous decision-makers have found this is a factor that weighs in favour of withholding the information.⁹⁴ However, where the information is of a non-sensitive nature or that sensitivity is

⁸⁹ Order F22-42, 2022 BCIPC 47 (CanLII) at para. 56 and the orders cited there; Order F24-85, 2024 BCIPC 97 (CanLII) at para. 76.

⁹⁰ Order F24-85, 2024 BCIPC 97 (CanLII) at para. 77-79.

⁹¹ For example, information located on pp. 11, 18, 24, 53-54 and 63 of the records.

⁹² For example, information located on pp. 2, 17, 24-25 and 63-65 of the records.

⁹³ For example, Order F25-63, 2025 BCIPC 73 (CanLII) at para. 98 and Order F24-05, 2024 BCIPC 7 (CanLII) at para. 55.

⁹⁴ For example, Order F22-42, 2022 BCIPC 47 (CanLII) at para. 61 and Order F24-05, 2024 BCIPC 7 (CanLII) at para. 56.

reduced by the circumstances, then this factor may weigh in favour of disclosure.⁹⁵

[115] In assessing the sensitivity of a deceased individual's personal information, I find it appropriate to consider whether the deceased individual would be concerned if their personal information were disclosed to others. In my view, this assessment should consider what the disputed information reveals about the deceased individual and adopt the following perspective:

An individual may not want family, friends or others to know certain details about them, some of which may change people's view or perceptions about them, or have other repercussions. These details frequently relate to medical information. The continuation of privacy rights after death recognizes the impact that disclosure of this information may have on others, and that the deceased may not want the information disclosed.⁹⁶

[116] The records and information at issue in this case reveal the care and treatment the Deceased received during their hospital stay and the various assessments they experienced during this time. Hospital and health records typically contain sensitive information about an individual; however, in this case, I find the sensitivity associated with some of the redacted information is reduced because the Applicant was the source of the information or was present with the Deceased when certain assessments took place or a health care provider already provided this information to the Applicant. Moreover, given the Applicant's close involvement in the Deceased's care and hospital stay, I find the Deceased would not be concerned if this redacted information were disclosed to the Applicant. Most of this information would only reveal health information about the Deceased already known to the Applicant. Ultimately, I find the circumstances in this case indicate that the sensitivity of some of the redacted information has been reduced which favours the disclosure of this information to the Applicant.

Applicant's personal information

[117] I find a factor that supports disclosure is that some of the withheld information is the personal information of the Applicant. Previous OIPC orders have stated that it would only be in rare circumstances where disclosure to an access applicant of their own personal information would be an unreasonable invasion of a third party's personal privacy.⁹⁷ Some of the information at issue is the Applicant's personal information because it identifies the Applicant by name

⁹⁵ Order F24-05, 2024 BCIPC 7 (CanLII) at para. 55.

⁹⁶ Order F14-09, 2014 BCIPC 11 (CanLII) at para. 41.

⁹⁷ For example, Order F14-47, 2014 BCIPC 51 at para. 36, citing Order F10-10, 2010 BCIPC 17 at para. 37.

or their relationship to the Deceased, describes their actions, or reveals the Applicant's interactions and discussions with others.⁹⁸

[118] Although some of this information is a combination of the Applicant and a third party's personal information, in Order 01-53, former Commissioner Loukidelis noted that "an applicant will relatively rarely be refused access to *an entire record* containing her or his own personal information in order to protect someone else's personal privacy."⁹⁹ I agree and adopt that approach. Therefore, I find the fact that some of the withheld information is the Applicant's personal information is a factor that weighs in favour of disclosing some of the information at issue.

The Sibling's personal information and authorization

[119] A small amount of the information at issue is about the Sibling, and includes a description of the Sibling's conversation with one of the Deceased's health care providers.¹⁰⁰ As previously mentioned, the evidence indicates the Sibling authorized the Hospital to release the requested records to the Applicant.¹⁰¹ Under s. 22(4)(a), I could not determine whether the Sibling knew the Deceased's medical and hospital records contained their personal information and whether the consent that they provided to the Hospital includes the disclosure of their personal information to the Applicant.

[120] However, most of the redacted information about the Sibling appears to be non-controversial, innocuous information, such as the Sibling's name and phone number. Moreover, the present case does not appear to be a situation where the Applicant and their Sibling are estranged from each other so this information would be unknown to the Applicant. Instead, I find the Applicant already knows the Sibling's full name because it was included as part of the Applicant's access request to the Hospital. There is also nothing in my review of the disputed records or the materials before me that would indicate the Sibling would be concerned if this information was provided to the Applicant.

[121] Regarding the Sibling's conversation with one of the Deceased's health care providers, this is not a situation where the Applicant and their Sibling are in conflict about the access request. The Sibling clearly knew the Applicant was seeking access to the requested records and supported the Applicant's request. Furthermore, the Applicant says they and their family, which includes the Sibling, are seeking closure over the Deceased's death. Therefore, I accept that both the Applicant and the Sibling share the same purposes and concerns and that the

⁹⁸ For example, information located on pp. 24-25 and 63-65 of the records.

⁹⁹ Order F01-53, 2001 CanLII 21607 (BCIPC) at para. 83, my emphasis.

¹⁰⁰ Information located on pp. 1, 4, 5, 7 and 22 of the records.

¹⁰¹ Applicant's access request dated January 1, 2024.

Sibling would not object if the Applicant knew what was discussed between the Sibling and the health care provider.

[122] Considering all the relevant circumstances and based on the materials before me, I find the Sibling would have no privacy concerns if their personal information and conversations with others were disclosed to the Applicant. Therefore, I conclude it would not be an unreasonable invasion of the Sibling's personal privacy to disclose their personal information to the Applicant.

Conclusion on s. 22(1)

[123] I found there was some template information that the Hospital redacted in several forms that does not contain any information about an identifiable individual.¹⁰² Therefore, I conclude that information is not personal information as defined in Schedule 1 of FIPPA and as interpreted by past OIPC orders. Accordingly, the Hospital is not required to refuse access to that information under s. 22(1).

[124] I found, however, that the rest of the information redacted in the disputed records is the personal information of several individuals, including the Deceased, the Applicant, the Sibling, Hospital employees and health care providers. I found there was no provision under s. 22(4) that applied to this information, which would have meant its disclosure would not be an unreasonable invasion of the third parties' personal privacy under s. 22(1).

[125] Instead, I found most of this personal information is subject to the presumption under s. 22(3)(a) because it relates to the Deceased's medical history, diagnosis, condition, treatment or evaluation. I also found certain work-related personal identifiers such as usernames and identification numbers of several Hospital employees and health care providers are subject to the presumption under s. 22(3)(d) because it relates to their employment or occupational history.

[126] Considering all the relevant circumstances, I find it would *not* be an unreasonable invasion of a third party's personal privacy to disclose to the Applicant some of the Deceased's personal information and some other third-party personal information. Although some of this information was subject to the presumption under s. 22(3)(a), I find the presumption is successfully rebutted for this information because it includes the Applicant's personal information and, for the reasons discussed earlier under the s. 22(2) analysis, I am satisfied the Applicant already knows some of the third-party personal information.¹⁰³ When it comes to the personal information of a deceased individual, several OIPC orders

¹⁰² Information redacted on pp. 73, 93 and 103 of the records.

¹⁰³ Information located on pp. 1, 2, 3-4, 17-19, 23-26, 34, 53-54, 63-65, 101-102 and 111 of the records.

have found it would not be an unreasonable invasion of the deceased individual's personal privacy to disclose information already known to the access applicant, and I reach the same conclusion here.¹⁰⁴

[127] Some of the redacted information known to the Applicant contains the personal information of other third parties such as the names and occupation of several health care providers. These third parties directly interacted with the Applicant and generated this information in the normal course of their work-related activities while providing care to the Deceased. In my view, the disclosure of this information would not be an unreasonable invasion of the third parties' personal privacy because the information is more about the Deceased than the third parties and only reveals that the third parties were involved in the Deceased's care or reveals their assessments of the Deceased which have already been communicated to the Applicant.

[128] I am aware that other OIPC orders have found an access applicant's existing knowledge was not enough to overcome the s. 22(3)(a) presumption because, among other things, it was unclear what information in the disputed records the access applicant did or did not know.¹⁰⁵ However, in this case, I can determine what information is known to the Applicant because of what is said in the disputed records and based on the Applicant's involvement in the Deceased's life and care and my detailed review of the disputed records and the evidence before me. Consistent with previous OIPC orders, I am satisfied that disclosing this information to the Applicant would not unreasonably invade the personal privacy of the Deceased or the other identifiable third parties in those records because it would only reveal personal information that the Applicant already knows.¹⁰⁶

[129] There is some personal information redacted in the disputed records that the Applicant may not know, which includes information about the Deceased and the Sibling's conversation with one of the Deceased's health care providers.¹⁰⁷ For the reasons given earlier in this order, I find the Sibling would have no privacy concerns if their personal information and conversations with others were disclosed to the Applicant. I also find the disclosure of this information may assist the Applicant and their family with understanding the circumstances regarding the Deceased's care or their death. Furthermore, I am satisfied that the disclosure of this information would not be an unreasonable invasion of the health care providers identified in those records because the information is more

¹⁰⁴ For example, Order 00-11, 2000 CanLII 10554 (BC IPC) at p. 10 of the pdf; Order F14-32, 2014 BCIPC 35 (CanLII) at paras. 42-43 and 48; Order F24-05, 2024 BCIPC 7 (CanLII) at paras. 52-54; and Order F25-73, 2025 BCIPC 84 (CanLII) at paras. 55-59 and 64.

¹⁰⁵ For example, Order F24-85, 2024 BCIPC 97 (CanLII) at paras. 74-75 and 82. Order F14-43, 2014 BCIPC 46 (CanLII) at paras. 50 and 55-56.

¹⁰⁶ For example, Order F25-73, 2025 BCIPC 84 (CanLII) at para. 57.

¹⁰⁷ Sibling's conversation located on p. 4 of the records and, for example, some information about the Deceased on pp. 17-21, 33-34, 63-65, 101-102 and 111-112 of the records.

about the Deceased and only reveals that the third parties were involved in the Deceased's care.

[130] I also do not have any concerns that the Applicant intends to broadly publish the Deceased's personal information or use it for improper purposes.¹⁰⁸ I am satisfied the Applicant has sought access for legitimate purposes, which includes assisting the Applicant and their family with the grieving process and to resolve some questions and concerns they have over the Deceased's death. As well, I find it reasonable to conclude the Deceased would have no privacy concerns if this redacted information was disclosed to the Applicant because of how closely involved the Applicant was in the Deceased's daily life and care and during the Deceased's hospital stay. I found the sensitivity associated with some of this health information was reduced given the circumstances and I am also satisfied that the information that I am ordering disclosed is not the type of information that a parent would be concerned disclosing to their adult child. Therefore, for all those reasons, I conclude the disclosure of certain information in the disputed records would not unreasonably invade the personal privacy of the third parties identified in those records, including the Deceased.

[131] However, it is not clear to me that the Applicant already knows the rest of the information that the Hospital withheld under s. 22(1) or that it would *not* be an unreasonable invasion of a third party's personal privacy to disclose this information to the Applicant. Some of this information is subject to the presumption under s. 22(3)(a) because it relates to the Deceased's medical history, diagnosis, condition, treatment or evaluation. I also found some of this information was subject to the presumption under s. 22(3)(d) because it relates to the employment and occupational history of several Hospital employees and health care providers, specifically their work-related usernames or identification numbers.¹⁰⁹

[132] Without sufficient explanation or evidence, I am not satisfied the relevant factors are strong enough to rebut the presumptions under ss. 22(3)(a) and 22(3)(d) regarding this information or that the relevant factors favour disclosing this information to the Applicant. Therefore, based on my review of the disputed information and considering the materials before me, I find it would be an unreasonable invasion of several third parties' personal privacy, including the Deceased, to disclose the rest of the redacted information in the disputed records to the Applicant.

¹⁰⁸ This was a concern discussed in Order F14-43, 2014 BCIPC 46 (CanLII) at para. 52. In the present case, I note the Applicant does not need the records to publicly disclose information about the Deceased that the Applicant already knows, and there is no evidence in this case that the Applicant has used or disclosed the Deceased's personal information for an improper purpose or intends to do so.

¹⁰⁹ For example, information located on pp. 1, 2, 17-19 and 65 of the records.

CONCLUSION

[133] For the reasons given above, I conclude the Hospital is required to refuse access under s. 22(1) to some of the redacted information at issue, but not all of it, and I make the following orders:

1. I confirm the Hospital's decision that the Applicant is not acting on behalf of the Deceased in exercising their access rights under s. 5(1)(b) of FIPPA.
2. Under s. 58(2)(c) of FIPPA, and subject to item 3 below, I require the Hospital to refuse access under s. 22(1) to some of the information redacted in the disputed records.
3. The Hospital is not required, under s. 22(1), to refuse access to information located on pages 1-4, 5-8, 17-21, 22, 23-26, 33-34, 53-54, 63-65, 73, 93, 101-102, 103 and 111-112 of the records. Therefore, under s. 58(2)(a) of FIPPA, I require the Hospital to give the Applicant access to that information, which I have highlighted in green in a copy of the records that will be provided to the Hospital with this order.
4. Under s. 58(4) of FIPPA, I require the Hospital to provide the OIPC's Registrar of Inquiries (Registrar) with proof that it has complied with the terms of this order. If the Applicant requested a paper or electronic copy of the records, then the Hospital must provide the Registrar with a copy of the records that it sends to the Applicant, along with any attached or relevant correspondence.

[134] Under s. 59(1) of FIPPA, the Hospital is required to comply with the terms of this order by November 28, 2025.

October 16, 2025

ORIGINAL SIGNED BY

Lisa Siew, Adjudicator

OIPC File No.: F24-95570