



Order F25-86

VANCOUVER COASTAL HEALTH AUTHORITY

Rene Kimmett
Adjudicator

October 30, 2025

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Summary: Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an applicant asked the Vancouver Coastal Health Authority (Health Authority) for any notes made by social workers on his hospital file. The Health Authority provided the applicant with records but withheld some information in them under s. 22(1) (unreasonable invasion of third-party personal privacy) of FIPPA. The adjudicator found that the Health Authority was required to refuse access to the information in dispute.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165, ss. 22(1), 22(2)(a), 22(2)(b), 22(2)(c), 22(2)(f), 22(2)(g), 22(2)(h), 22(3), and 22(4).

INTRODUCTION

[1] Under the *Freedom of Information and Protection of Privacy Act* (FIPPA), an applicant asked the Vancouver Coastal Health Authority (Health Authority) for any notes made by social workers on his medical file at Vancouver General Hospital from July 15 to August 16, 2023.

[2] The Health Authority provided the applicant with responsive records but withheld some information in the records under s. 22(1) (unreasonable invasion of third-party personal privacy) of FIPPA.

[3] The applicant asked the Office of the Information and Privacy Commissioner (OIPC) to review the Health Authority's decision to withhold information responsive to his access request.

[4] The OIPC's mediation did not resolve the issues in dispute, and the matter proceeded to this inquiry. The Health Authority and applicant both provided submissions in this inquiry.

ISSUES AND BURDEN OF PROOF

[5] In this inquiry, I must decide whether the Health Authority is required to withhold the information in dispute under s. 22(1).

[6] The Health Authority has the initial burden to prove that the information in dispute is personal information.¹ The applicant has the burden to prove that disclosure of the personal information in dispute would not be an unreasonable invasion of a third party's personal privacy.²

DISCUSSION

Background

[7] The applicant has received medical treatment from various health care facilities operated by the Health Authority. The applicant made the access request himself, but his niece (agent) is his power of attorney and made the submissions in this inquiry on his behalf. There is a rift between the agent and her brothers (the applicant's nephews) about the settlement of their mother's estate³ and the applicant's decision to appoint the agent as his power of attorney.⁴

Records at issue

[8] The information in dispute is contained in three pages of notes made by social workers related to the care the applicant received at Vancouver General Hospital. The Health Authority has withheld portions of each of the three pages.

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

[9] Section 22(1) requires a public body to refuse to disclose personal information if its disclosure would unreasonably invade a third party's personal privacy. A third party is any person other than the Applicant and a public body.⁵

[10] There are four steps in the s. 22(1) analysis, and I will apply each step under the subheadings that follow.⁶

¹ Order 03-41, 2003 CanLII 49220 (BC IPC) at paras 9-11.

² FIPPA, s. 57(2).

³ Applicant's submission at para 25(a).

⁴ Applicant's submission at para 25(b)(i).

⁵ FIPPA, Schedule 1.

⁶ Order F15-03, 2015 BCIPC 3 (CanLII) at para 58. The applicant asserts that s. 22(2) must be considered before ss. 22(3) or 22(4). He does not provide a basis for this assertion or an explanation about why I should deviate from the order of operations established in many previous OIPC orders. For these reasons, I reject the applicant's argument on this point.

Section 22(1) – personal information

[11] The first step in the s. 22(1) analysis is to determine if the information in dispute is personal information. Personal information is defined in FIPPA as “recorded information about an identifiable individual other than contact information”.⁷ 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.⁸ Contact information is 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”.⁹

[12] The applicant submits that the withheld information is contained in statements made by a third party and that if the statements are about him or his agent, rather than a third party, then they cannot contain “personal information” for the purpose of s. 22(1).¹⁰

[13] I do not accept the applicant’s interpretation of “personal information”. OIPC orders have consistently found that a third party’s comments or opinions about an applicant is the joint personal information of the third party who provided the opinion and the applicant who is the subject of the opinion.¹¹ The applicant has not persuaded me to deviate from this interpretation.

[14] I have reviewed the information in dispute and find it is the joint personal information of the applicant, his agent, and one or more third parties. None of the withheld information is contact information.

Section 22(4) – not an unreasonable invasion of personal privacy

[15] The second step in the s. 22(1) analysis is to determine if the personal information falls into any of the categories of information listed in s. 22(4). Section 22(4) sets out circumstances where disclosure of personal information is not an unreasonable invasion of personal privacy.

[16] The parties have not made submissions about the application of s. 22(4). I have considered the categories listed under s. 22(4) and find that none apply to the personal information in dispute.

⁷ FIPPA, Schedule 1.

⁸ Order F05-30, 2005 CanLII 32547 (BC IPC) at para 35.

⁹ FIPPA, Schedule 1.

¹⁰ Applicant’s submission at para 21.

¹¹ Order F22-62, 2022 BCIPC 70 (CanLII) at para 54; Order F24-47, 2024 BCIPC 55 (CanLII) at para 33.

Section 22(3) – presumed an unreasonable invasion of personal privacy

[17] The third step in the s. 22(1) analysis is to determine whether any of the presumptions listed under s. 22(3) apply to the personal information in dispute. If one or more apply, then disclosure of that personal information is presumed to be an unreasonable invasion of personal privacy.

[18] The parties have not made submissions about the application of s. 22(3). I have considered the categories listed under s. 22(3) and find that none apply to the personal information in dispute.

Section 22(2) – all relevant circumstances

[19] The final step in the s. 22(1) analysis is to consider all relevant circumstances, including those listed in s. 22(2), to determine whether the disclosure of personal information would be an unreasonable invasion of a third party's personal privacy.

Subject the activities of a public body to public scrutiny - s. 22(2)(a)

[20] Section 22(2)(a) requires a public body to consider whether the disclosure is desirable for the purpose of subjecting the activities of a public body to public scrutiny. The purpose of s. 22(2)(a) is to make public bodies more accountable, not to scrutinize or hold individual third parties to account.

[21] The applicant submits s. 22(2)(a) applies because “there is a serious question of whether the social workers who made various notes for the record did so recklessly in a way that creates a permanent record of misinformation affecting the Applicant.”¹² The applicant provides examples, which he says demonstrate that the social workers misunderstood what he or his agent said¹³ or documented information provided by third parties, which the applicant says is inaccurate.¹⁴

[22] I understand the applicant to be saying that the information he has already received contains errors or information he disagrees with and that there will be more of this kind of information in the withheld portions of the records. I also understand the applicant to be saying that the public should scrutinize the notes because they demonstrate that the social workers acted recklessly while creating the notes or caring for the applicant.

[23] I cannot conclude, based on the record before me, that the social workers acted recklessly. Further, the applicant has not adequately explained his view

¹² Applicant's submission at para 25(a).

¹³ Applicant's submission at paras 20(a), 20(b), and 25(b)(ii).

¹⁴ Applicant's submission at paras 20(c), 20(d), 25(b)(iii), 25(b)(iv), 25(b)(v), and 25(g)(i).

that the public has an interest in scrutinizing the notes taken by the social workers. While the applicant and his agent clearly want to scrutinize the notes, there is nothing to suggest there is a broader public interest in this subject matter. I find that disclosure of the withheld personal information is not desirable for subjecting the activities of the public body to public scrutiny.

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

[24] Section 22(2)(b) requires a public body to consider whether disclosure would be likely to promote public health and safety.

[25] The applicant submits disclosure is likely to promote public health because the records relate to the quality of care he received. The applicant submits that numerous statements in the records are incorrect, unreliable, and inflammatory and provides examples from the parts of records already disclosed to him.¹⁵

[26] Previous OIPC orders have found that s. 22(2)(b) may apply where disclosure would help clarify what happened during an event that harmed public health or safety.¹⁶ I understand these orders to stand for the proposition that knowing what happened during an event can prevent a similar event from occurring in future.

[27] Here, the applicant has not identified a specific harm to his health or safety or explained how disclosure of the records will prevent this harm from occurring, to himself or others, in future. While he may disagree with the accuracy of the records, the applicant has not presented evidence to suggest that the social workers acted contrary to their professional obligations or failed to meet their duty of care. There is also no evidence that the applicant has made a complaint to the Health Authority or the social workers' regulatory college about the quality of his care.

[28] For these reasons, I find the applicant has not established that s. 22(2)(b) weighs in favour of disclosure.

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

[29] Section 22(2)(c) requires a public body to consider whether the personal information is relevant to a fair determination of the applicant's rights. Past orders have said that s. 22(2)(c) applies where all of the following circumstances exist:

¹⁵ Applicant's submission at para 25(b).

¹⁶ The following orders discuss the scope of s. 22(2)(b) but find that it does not apply in the circumstances: Order F25-48, 2025 BCIPC 56 (CanLII) at para 173; Order F19-36, 2019 BCIPC 40 (CanLII) at para 100; Order F20-37, 2020 BCIPC 43 (CanLII).

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 withheld personal information must have some bearing on, or significance for, the 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.¹⁷

[30] The applicant submits that disclosure of the personal information in dispute is relevant to a fair determination of his rights because only knowledge of the redacted portions will allow him to ask the Health Authority to correct any incorrect information that may be in the withheld portions of the records.¹⁸

[31] I find that the applicant has met the first part of the test. The first part asks whether the applicant has a legal right. Under s. 29(1) of FIPPA, an individual who believes there is an error or omission in personal information about them may ask the public body to correct the information. If no correction is made in response to a request for correction, the public body must annotate the information with the correction that was requested but not made. The right to ask for a correction is a legal right drawn from statute, which meets the first part of the test.

[32] The second part of the test “requires that the legal right be related to a proceeding that is either underway or contemplated.” The applicant’s submission is that he contemplates exercising his right to ask for a correction and, therefore, contemplates a proceeding.

[33] A proceeding is the “regular and ordinary progression of a lawsuit, including all acts and events between the time of commencement and the entry of judgement [or] any procedural means for seeking redress from a tribunal or agency.”¹⁹ I understand this definition to be saying that a proceeding is a formal mechanism through which a legal dispute can be resolved. Under this definition, arbitration could also be a “proceeding”.

¹⁷ Order 01-07, 2001 CanLII 21561 (BCIPC) at para 31; Order F16-36, 2016 BCIPC 40 (CanLII) at paras 39-65.

¹⁸ Applicant’s submission at paras 25(c) and 26-28.

¹⁹ “Proceeding”, *Black’s Law Dictionary*, 10th ed.

[34] Some rights are so tied to a proceeding that exercising a right will invariably be related to a proceeding. For example, the *Privacy Act*²⁰ creates a right to sue for the tort of violation of privacy. A person who exercises this right does so by initiating a proceeding. Therefore, a person that contemplates exercising this right also contemplates a proceeding. However, the exercise of a legal right is not, in every situation, related to a proceeding. An applicant's right to ask for a correction of their personal information, under s. 29(1), is not linked to a proceeding in this way.

[35] If an applicant exercises their right to ask for a correction, the public body may make a correction or an annotation in lieu of a correction. If the public body fails to act or the applicant is unsatisfied with the public body's decision, then they can, under s. 52(1), ask the OIPC to conduct a review. In contrast, if the applicant accepts the public body's decision under s. 29, there is no dispute between the applicant and the public body and, therefore, no proceeding contemplated to resolve the dispute.

[36] As noted earlier, the applicant has the right to ask for a correction. I accept that the applicant intends to exercise that right. However, the applicant has not yet exercised that right. He has not given the Health Authority the opportunity to provide a satisfactory response to his request for correction. He has not received a response from the Health Authority or decided whether he agrees or disagrees with the response. The applicant may be assuming he will disagree with the Health Authority's response. However, until he receives a response from the Health Authority, there is not a dispute between himself and the Health Authority. The applicant cannot reasonably contemplate a proceeding to resolve a dispute that does not yet exist.

[37] For the reasons given above, I find that the applicant has not established that he contemplates a proceeding related to his right to ask for correction.²¹ Since all four parts of the test must be met for s. 22(2)(c) to apply, I find that the applicant has failed to establish that the personal information in dispute is relevant to a fair determination of his rights. I find that s. 22(2)(c) does not weigh in favour of disclosure of the personal information in dispute.

[38] As a final point, the applicant argues that not having access to the personal information in dispute could effectively render his right to ask for a correction meaningless. I note that s. 29(1) states "an individual who believes

²⁰ *Privacy Act*, RSBC 1996, c 373.

²¹ This finding differs from previous OIPC findings about whether disclosure of personal information is relevant to a fair determination of an applicant's right to ask for a correction of their personal information: Order F14-47, 2014 BCIPC 51 (CanLII) paras 24-27; Order F15-30, 2015 BCIPC 33 (CanLII) at paras 26-28; Order F19-02, 2019 BCIPC 2 (CanLII) at paras 55-60 and 78; Order F24-09, 2024 BCIPC 12 (CanLII) at paras 47-51. The applicant's submissions provided me with the opportunity to reconsider this subject and make a different finding about the relationship between the existence of a right and the contemplation of a proceeding.

there is an error or omission” in their personal information may ask the public body to make a correction (underlining added by me). The right to ask for a correction is, therefore, based on an applicant’s belief. There is no requirement that an applicant know there is an error or omission before asking for a correction. The applicant’s submission sets out specific concerns he has about the accuracy of the information already disclosed to him and the accuracy of the information he thinks is withheld from him.²² Nothing is preventing the applicant from acting on his belief and asking the public body to correct his personal information based on his concerns.

Supplied in confidence – s. 22(2)(f)

[39] Section 22(2)(f) asks whether the personal information was supplied in confidence. If so, this factor weighs in favour of withholding the personal information. For s. 22(2)(f) to apply, there must be evidence that a third party supplied personal information to another person and, that, when they did so, the third party had an objectively reasonable expectation of confidentiality.²³

[40] The Health Authority submits that some of the personal information in dispute was supplied in confidence.²⁴ The Health Authority does not point to any specific evidence supporting its assertion that personal information was supplied in confidence. It does not make submissions or provide evidence about whether the expectation of confidentiality was reasonable in the circumstances.

[41] Without more information, I find that the Health Authority has not established that any of the personal information in dispute was supplied in confidence. I find s. 22(2)(f) does not weigh in favour of withholding any of the personal information.

Likely to be inaccurate or unreliable – s. 22(2)(g)

[42] Section 22(2)(g) requires a public body to consider whether personal information is likely to be inaccurate or unreliable.

[43] The applicant submits that the portions of the records that are already disclosed to him contain serious inaccuracies and that it is likely the withheld portions also contain inaccuracies.²⁵

[44] The applicant is arguing that the possibility of incomplete or inaccurate information in the records *favours* disclosure. However, past orders make clear

²² Applicant’s submission at paras 20 and 25.

²³ Order F11-05, 2011 BCIPC 5 at para 41, citing and adopting the analysis in Order 01-36, 2001 CanLII 21590 (BC IPC) at paras 23-26 regarding s. 21(1)(b).

²⁴ Health’s Authority’s initial submission at 4.

²⁵ Applicant’s submission at para 25(g).

that this factor weighs *against* disclosure if the personal information in dispute is likely to be inaccurate or unreliable.²⁶ The purpose of s. 22(2)(g) is to ensure that third parties are not misrepresented in a public way by preventing disclosure of inaccurate or unreliable information about them. The applicant has not pointed to anything that persuades to deviate from this approach to s. 22(2)(g); therefore, I find that s. 22(2)(g) does not weigh in favour of disclosure as argued by the applicant.

Unfair damage to reputation – s. 22(2)(h)

[45] Section 22(2)(h) requires a public body to consider whether disclosure of personal information may unfairly damage the reputation of any person referred to in the records.

[46] The applicant says that the records may contain descriptions of the applicant and his agent provided by the applicant's nephews that are unfair or inaccurate. He submits that this personal information may damage his own reputation and the reputation of his agent, as social workers and medical staff continue to rely on these descriptions.²⁷

[47] I understand the applicant to be saying that the records at issue are already causing damage to his and his agent's reputations and that he needs access to the personal information in order to ask the Health Authority to correct it.

[48] The purpose of s. 22(2)(h) is to prevent public disclosure of personal information, where *disclosure* may unfairly damage the reputation of any person referred to in the records. Whether non-disclosed personal information is already unfairly damaging someone's reputation is not a relevant consideration under s. 22(2)(h). I find that the applicant has not established that s. 22(2)(h) weighs in favour of disclosure.

Applicant's personal information

[49] Previous OIPC decisions have found that the fact that information is an applicant's own personal information weighs in favour of disclosure. However, the weight of this factor is limited where the information in dispute is simultaneously the applicant's personal information and the personal information of other individuals.²⁸

²⁶ Order F24-100, 2024 BCIPC 114 (CanLII) at para 112; Order F23-102, 2023 BCIPC 118 (CanLII), at para 33; and Order F24-09, 2024 BCIPC 12 (CanLII), at para 64.

²⁷ Applicant's submission at para 25(h).

²⁸ Order F24-31, 2024 BCIPC 38 (CanLII) at para 141; Order F15-52, 2015 BCIPC 55 at para 45, Order F22-31, 2022 BCIPC 34 (CanLII) at para 85.

[50] The applicant submits that the personal information in dispute is contained in his health record and must be the personal information of either himself or his agent.²⁹

[51] The personal information in dispute is the joint personal information of the applicant, his agent, and one or more third parties. I find the fact that it is his personal information weighs slightly in favour of disclosure.

Applicant's knowledge

[52] In past orders, OIPC adjudicators have found that an applicant's prior knowledge of the personal information in dispute may weigh in favour of disclosure.³⁰ The applicant asserts that he knows the third party whose personal information has been withheld from the record.³¹ However, the applicant has not demonstrated that he does actually know the content of the personal information in dispute. I find that this factor does not weigh in favour of disclosure in the circumstances.

Sensitivity of the personal information

[53] Many past orders have considered the sensitivity of information as a relevant circumstance. Where information is sensitive, this is a circumstance weighing in favour of withholding the information.³² Conversely, where information is innocuous and not sensitive in nature, then this factor may weigh in favour of disclosure.³³

[54] I find that the personal information in dispute is somewhat sensitive in nature and this weighs against disclosure. I cannot say more without disclosing the personal information in dispute. In reaching this finding, I specifically considered that disclosure under FIPPA is disclosure to the world and not just to the applicant.

Conclusion – s. 22

[55] I found above that all of the information in dispute is the joint personal information of the applicant, his agent, and one or more third parties.

[56] I found that none of the categories under ss. 22(4) or 22(3) apply to the personal information in dispute.

²⁹ Applicant's submission at para 21.

³⁰ Order F19-41, 2019 BCIPC 46 at paras 79-80.

³¹ Applicant's submission at para 20.

³² Order F19-15, 2019 BCIPC 17 at para 99.

³³ Order F16-52, 2016 BCIPC 58 at para 91.

[57] I found that only one factor weighs in favour of disclosure: the fact that the personal information in dispute is the applicant's own personal information. I gave this factor less weight because the applicant's personal information is interwoven with third-party personal information. I concluded most of the relevant factors do not weigh in favour of disclosure, and that the sensitivity of the personal information weighs against disclosure.

[58] Overall, after considering all relevant circumstances, I find that the applicant has not met his burden to prove that disclosure of the personal information in dispute would not be an unreasonable invasion of third-party personal privacy. The Health Authority is required to withhold the information in dispute.

CONCLUSION

[59] For the reasons given above, under s. 58, I require the Health Authority to refuse to give access to the information it has withheld under s. 22(1).

October 30, 2025

ORIGINAL SIGNED BY

Rene Kimmitt, Adjudicator

OIPC File No.: F23-95370