



Order F26-14

## VANCOUVER COASTAL HEALTH AUTHORITY

David S. Adams  
Adjudicator

March 4, 2026

CanLII Cite: 2026 BCIPC 18  
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**Summary:** An applicant requested her medical records from the Vancouver Coastal Health Authority (VCH) under the *Freedom of Information and Protection of Privacy Act* (FIPPA). VCH disclosed the records, but withheld some information in them under s. 22(1) (unreasonable invasion of third-party privacy) of FIPPA. The adjudicator found that VCH was required to refuse to disclose most of the information it withheld, but that it was not required to refuse to disclose certain other information, and ordered it to disclose that information to the applicant.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c 165, ss. 22(1), 22(2), 22(2)(c), 22(2)(f), 22(2)(g), 22(3)(a), 22(4)(e), and 22(5).

### INTRODUCTION

[1] An applicant requested her own medical records from the Vancouver Coastal Health Authority (VCH) under the *Freedom of Information and Protection of Privacy Act* (FIPPA). VCH disclosed the records, but withheld some information in them under s. 22(1) (unreasonable invasion of third-party privacy) of FIPPA.

[2] The applicant requested that the Office of the Information and Privacy Commissioner (OIPC) review VCH's decision to withhold information. Mediation by the OIPC did not resolve the issue and it proceeded to inquiry. Both parties provided submissions, and the applicant provided some supporting documents.

#### ***Preliminary matter: issues outside the scope of this inquiry***

[3] Most of the applicant's submission relates to provisions other than s. 22 of FIPPA. In particular, she says that VCH and others used her personal information without making every reasonable effort to ensure its accuracy,

contrary to s. 28. However, the sole issue before me, as set out in the Notice of Inquiry, is whether VCH is required to refuse to disclose information under s. 22.

[4] The OIPC's *Instructions for Written Inquiries*, which were provided to the parties, say that parties may not add new issues to an inquiry without permission, that permission must be sought two weeks prior to the date for initial submissions, and that new issues raised without permission will not be considered by the adjudicator.<sup>1</sup> I can see nothing in the materials before me that indicates the applicant sought such permission, or that there are circumstances which would warrant my adding new issues. I will therefore not consider the new issues raised by the applicant. However, nothing in this order precludes the applicant from making a complaint to the OIPC related to s. 28 or any other section, should she wish to do so.

## **ISSUE AND BURDEN OF PROOF**

[5] The issue I must decide in this inquiry is whether VCH is required to refuse to disclose information under s. 22 of FIPPA.

[6] Under s. 57(2) of FIPPA, it is up to the applicant to prove that disclosure of the information in issue would not be an unreasonable invasion of a third party's personal privacy. However, VCH has the initial burden of proving that the information at issue is personal information.<sup>2</sup>

## **DISCUSSION**

### **Background**

[7] VCH provides health services in the area around greater Vancouver. The applicant was a patient in VCH's care.

### **Records and information at issue**

[8] The responsive records are medical records which total 187 pages. VCH has withheld information on 78 of those pages.

### ***Unreasonable invasion of third-party privacy – s. 22(1)***

[9] The analytical approach to s. 22(1) is well established, and I will follow it here.<sup>3</sup>

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<sup>1</sup> At 3-4.

<sup>2</sup> Order 03-41, 2003 CanLII 49220 (BC IPC) at paras 9-11.

<sup>3</sup> See, e.g., Order F15-03, 2015 BCIPC 3 (CanLII) at para 58.

*Personal information – s. 22(1)*

[10] I must first decide whether the withheld information is personal information. Both “personal information” and “contact information” are defined in Schedule 1 of FIPPA:

“personal information” means recorded information about an identifiable individual other than contact information;

“contact information” means 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;

[11] Previous orders have established that information is “personal information” for the purposes of s. 22(1) if it is reasonably capable of identifying a particular individual, either alone or when combined with other available sources of information.<sup>4</sup>

[12] While no party made submissions about whether the withheld information is personal information, on my review of the information itself, I have no difficulty concluding that it is reasonably capable of identifying particular individuals. I find that none of it is contact information. As a result, it is personal information for the purposes of s. 22(1).

*Not an unreasonable invasion of privacy – s. 22(4)*

[13] Section 22(4) sets out circumstances in which disclosure of personal information is not an unreasonable invasion of a third party’s privacy. No party made submissions on any s. 22(4) circumstance. For the most part, I do not find that any s. 22(4) circumstance applies to the withheld information.

[14] However, a small amount of the withheld information describes actions that medical staff took, or planned to take, or their assessments of the applicant.<sup>5</sup> Section 22(4)(e) provides that a disclosure of personal information is not an unreasonable invasion of a third party’s privacy where the personal information is about the third party’s position or functions as a public body employee. I find s. 22(4)(e) to apply to this information because this information contains objective, factual statements about what third parties did in the normal course of discharging their job duties. As a result, VCH is not required to refuse to disclose it. It must disclose that information to the applicant.

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<sup>4</sup> Order F18-11, 2018 BCIPC 14 (CanLII) at para 32.

<sup>5</sup> Namely, portions of the withheld information on pages 14, 17, 18, 20, 21, 76, 79, 147, 152, 154, and 155 of the records package.

*Presumed unreasonable invasion of privacy – s. 22(3)*

[15] Section 22(3) sets out circumstances in which disclosure of personal information is presumed to be an unreasonable invasion of a third party's privacy. No party made submissions on any s. 22(3) presumption.

[16] Section 22(3)(a) provides that a disclosure of personal information is presumed to be an unreasonable invasion of third-party privacy where it relates to the third party's medical history. Without revealing the contents or precise location of that information, I find that a small amount of the withheld personal information relates to a third party's medical history and falls under the s. 22(3)(a) presumption. I do not find that any other s. 22(3) presumptions apply.

*All relevant circumstances – s. 22(2)*

[17] Section 22(2) provides that in determining whether a disclosure of information would be an unreasonable invasion of a third party's personal privacy, a public body must consider all relevant circumstances, including those enumerated in s. 22(2). It is at this stage of the analysis that any applicable s. 22(3) presumptions may be rebutted.

[18] VCH says the withheld information was supplied in confidence by third parties, so s. 22(2)(f) should favour withholding. It says no circumstances favouring disclosure exist.<sup>6</sup> I understand the applicant to be taking the position that ss. 22(2)(c) and (g) apply and favour disclosure.<sup>7</sup> These sections state:

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

...

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

...

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

(g) the personal information is likely to be inaccurate or unreliable

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

[19] Section 22(2)(c) asks whether withheld information is relevant to a fair determination of an applicant's rights.

<sup>6</sup> VCH's initial submission at 4.

<sup>7</sup> Applicant's response submission at paras 19 and 27.1.

[20] The applicant says: "...within these redacted sections lies the very basis for my continued involvement in the mental health system. I want to see what the evidence is that has brought me here, and keeps me in [VCH's] care."<sup>8</sup> In her submission, she cites s. 22(2)(c). I understand her to be arguing that the withheld information is relevant to a fair determination of her rights related to her involuntary admission to VCH's care. I gather from the records VCH has disclosed that the applicant has, from time to time, been involuntarily admitted to VCH's care under the *Mental Health Act*.<sup>9</sup> It is not clear on the basis of the materials before me whether she is still so admitted. VCH does not say anything about the possible application of s. 22(2)(c).

[21] Previous orders have found that all of the following circumstances must exist in order for s. 22(2)(c) to apply:

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, 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.<sup>10</sup>

[22] In this case, the applicant has pointed out that she has rights related to involuntary admission under the *Mental Health Act*. I accept that these are legal rights drawn from a statute, so the first branch of the test is satisfied.

[23] The applicant says:

The review process for attaining her rights to refuse harmful medications is on hold until this matter of retrieving accurate records is performed. This will allow a fair and unbiased review panel to reconsider the treatment plan and approve her withdrawal from any medical interventions/programs that are forced on her beyond her will and individual consent.<sup>11</sup>

[24] The *Mental Health Act* provides for a review process when a person has been involuntarily admitted to care. I understand the applicant's submission (which VCH has not contested) to mean that she is involved in this review process. Although the applicant does not provide much explanation on this point,

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<sup>8</sup> Applicant's request for review.

<sup>9</sup> RSBC 1996 c 288.

<sup>10</sup> Order 01-07, 2001 CanLII 21561 (BC IPC) at para 31.

<sup>11</sup> Applicant's response submission at para 10.3.

I accept that this is a proceeding which is underway and is related to her rights under the *Mental Health Act*. The second branch of the test is therefore satisfied.

[25] I turn next to the question of whether the withheld information has some bearing on the determination of the rights in question.

[26] It appears to me that the latest information in the responsive records dates from June 2023. The withheld information consists almost entirely of collateral information from third parties (who are not medical professionals) about the applicant. In the absence of any explanation from the applicant, I cannot find that this kind of out-of-date, non-expert information would likely be useful to a review panel under the *Mental Health Act* for any purpose related to the applicant's involuntary admission. Since in my view the withheld information does not have a bearing on, or significance for, the determination of the patient's rights, I do not find that s. 22(2)(c) is engaged in this case.

*Supplied in confidence – s. 22(2)(f)*

[27] Section 22(2)(f) asks whether withheld personal information has been supplied in confidence. Previous orders have found that people generally supply information (including information about a patient who is also an access applicant) to health care professionals in confidence, and that this factor favours the withholding of this information.<sup>12</sup> In my view, almost all of the withheld information is of this character. I find that this factor strongly favours withholding that information.

[28] However, I find that a small amount of information on page 41 of the records package was not supplied in confidence by third parties, but was supplied by the applicant herself. I also find that the withheld information at pages 10 and 22 was not supplied by third parties. I do not find that s. 22(2)(f) applies to this information.

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

[29] Section 22(2)(g) asks whether withheld personal information is likely to be inaccurate or unreliable. If the information were likely to be inaccurate or unreliable, this would be a factor favouring withholding, since the purpose of s. 22(2)(g) is to ensure that third parties are not misrepresented in a public way.<sup>13</sup>

[30] As far as I can ascertain, the applicant does not say why the withheld information is likely to be inaccurate or unreliable. On my review of the information, I cannot find that it is likely to be so. I find that s. 22(2)(g) does not apply.

<sup>12</sup> See, e.g., Order F24-47, 2024 BCIPC 55 (CanLII) at paras 56-58.

<sup>13</sup> Order F25-86, 2025 BCIPC 100 (CanLII) at para 44.

*Applicant's personal information*

[31] Personal information may be the joint personal information of an applicant and one or more third parties.<sup>14</sup> In this case, all of the withheld information is about the applicant; it consists of third parties' descriptions of their interactions with her. This means that in addition to being the personal information of third parties, it is the personal information of the applicant. I find this factor to weigh only modestly in favour of disclosure, since the information is not solely the applicant's personal information.

*Sensitivity of information*

[32] Many previous orders have considered the sensitivity of personal information a relevant circumstance under s. 22(2). Where personal information is sensitive, that is a circumstance favouring withholding. Conversely, where information is not sensitive, that is a circumstance favouring disclosure.<sup>15</sup>

[33] Most of the withheld information consists of notes of private conversations between third parties and VCH staff. Without revealing the contents of the information, I can say that for the most part, I find them highly sensitive, and find that this factor weighs against disclosure. However, I find that a small amount of withheld information on pages 10, 22, and 41 of the records package is not sensitive personal information about third parties, and find that this factor favours the disclosure of that information.

*Conclusion on s. 22(1)*

[34] I found that all of the withheld information is personal information. I found that s. 22(4)(e) applies to a small amount of the personal information, so that its disclosure would not be an unreasonable invasion of third-party privacy. This information must be disclosed to the applicant. I found that s. 22(3)(a) applies to a small amount of information, so that its disclosure is presumed to be an unreasonable invasion of privacy.

[35] Considering the relevant factors, I find that they largely favour the withholding of most of the withheld information. I find that the applicant has not met her burden of establishing that the disclosure of most of the withheld information would not be an unreasonable invasion of third-party privacy. However, there is some information whose disclosure would, I find, not be an unreasonable invasion of privacy, and VCH must disclose it to the applicant.

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<sup>14</sup> See, e.g., Order F22-31, 2022 BCIPC 34 (CanLII) at paras 84-85.

<sup>15</sup> See, e.g., Order F21-68, 2021 BCIPC 79 (CanLII) at para 94 and the orders cited therein.

*Summary of information – s. 22(5)*

[36] Section 22(5) provides that where a public body refuses to disclose information supplied in confidence about an applicant, the public body must give the applicant a summary of the information, unless the summary cannot be prepared without disclosing the identity of the third party who supplied the personal information. No party made submissions on the application of s. 22(5).

[37] In this case, I have considered whether information supplied in confidence about the applicant could be summarized without revealing the identity of the third party who supplied the information, and I find that it could not. Given the contents of the information, I think it would be easy for the applicant to deduce who supplied it. Therefore, VCH is not required to provide a summary of that information under s. 22(5).

**CONCLUSION**

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

1. I confirm, subject to item 2 below, VCH's decision to refuse the applicant access to the information it withheld under s. 22.
2. VCH is required to give the applicant access to the information I have highlighted in green in the copy of the records provided to VCH with this order, on pages 10, 14, 17, 18, 20-22, 41, 76, 79, 147, 152, 154, and 155.
3. VCH must provide the OIPC registrar of inquiries with proof it has complied with item 2 above.

[39] Pursuant to s. 59(1) of FIPPA, the public body is required to comply with this order by April 17, 2026.

March 4, 2026

**ORIGINAL SIGNED BY**

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David S. Adams, Adjudicator

OIPC File No.: F24-95914