



OFFICE OF THE  
INFORMATION &  
PRIVACY COMMISSIONER  
FOR BRITISH COLUMBIA

Order F26-41

## PROVINCIAL HEALTH SERVICES AUTHORITY

Alexander Corley  
Adjudicator

May 20, 2026

CanLII Cite: 2026 BCIPC 52  
Quicklaw Cite: [2026] B.C.I.P.C.D. No. 52

**Summary:** The adult children of a deceased individual requested the deceased's medical records from the Provincial Health Services Authority (public body). The public body determined that the applicants were not acting "on behalf of" the deceased under s. 5(1)(b) of the *Freedom of Information and Protection of Privacy Act* (FIPPA) and withheld the records under s. 22(1) (unreasonable invasion of privacy) of FIPPA. At the inquiry, the adjudicator found that the applicants were acting "on behalf of" the deceased and ordered the public body to release the records in dispute to the applicants.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, [RSBC 1996, c. 165] at ss. 5(1)(b), 22(1), and 22(4)(e); *Freedom of Information and Protection of Privacy Regulation*, [BC Reg 155/2012] at s. 5; *Interpretation Act*, [RSBC 1996, c. 238] at s. 29, definition of "personal representative."

### INTRODUCTION

[1] This order is about whether a deceased person's adult children (applicants) can access the deceased's medical records pursuant to the *Freedom of Information and Protection of Privacy Act* (FIPPA)<sup>1</sup> and the *Freedom of Information and Protection of Privacy Regulation* (Regulation).

[2] The deceased passed away on May 21, 2024. On July 8, 2024, the applicants jointly requested under FIPPA that the BC Cancer Agency, a program of the Provincial Health Services Authority (public body), release all the deceased's medical records created between March 15, 2024, and the deceased's passing.

[3] In response, the public body advised the applicants that it had determined the access request was not made on behalf of the deceased in accordance with

---

<sup>1</sup> Through the remainder of this order, references to sections of an enactment are references to FIPPA unless otherwise stated.

s. 5(1)(b) of FIPPA and s. 5 of the Regulation. Therefore, the public body treated the request as an arm's-length request for third-party personal information and determined it was required to withhold all the requested information under s. 22(1) (unreasonable invasion of privacy).

[4] On October 29, 2024, the applicants asked the Office of the Information and Privacy Commissioner for British Columbia (OIPC) to review the public body's decision to withhold the requested records. Mediation by the OIPC did not resolve the issues between the parties and the applicants requested that the matter proceed to this inquiry. The public body and the applicants provided written submissions in the inquiry, with the applicants providing a joint submission signed by each of them.

## ISSUES

[5] The issues to be decided in this inquiry are:

1. Did the applicants make the access request on behalf of the deceased in accordance with s. 5(1)(b) of FIPPA and s. 5 of the Regulation?
2. Is the public body required to withhold any information in the disputed records under s. 22(1)?

[6] FIPPA does not identify which party has the burden of showing whether an access request has been made on behalf of a deceased person. However, in these circumstances, previous OIPC orders have determined that each party is responsible for providing evidence and argument in support of their own position.<sup>2</sup> I agree with and adopt the same approach here.

[7] Section 57(2) places the burden on the applicants to establish that disclosing the information the public body has withheld under s. 22(1) would not be an unreasonable invasion of a third party's personal privacy. However, the public body bears the initial burden of demonstrating that the information is "personal information."<sup>3</sup>

## DISCUSSION

### *Background*

[8] For several years prior to their passing, the deceased regularly received treatment from medical professionals employed by the public body. In the time leading up to the deceased's passing, at least one of the applicants was heavily involved in the deceased's care, both in terms of communicating with the

---

<sup>2</sup> See, for example, Order F18-08, 2018 BCIPC 10 at para. 7 and the orders cited therein.

<sup>3</sup> Order 03-41, 2003 CanLII 49220 (BC IPC) at paras. 9-11.

deceased's healthcare providers and directly administering care or otherwise assisting the deceased.

[9] On numerous occasions during this period, the deceased filled and signed standard forms authorizing the broad release of their medical records to one of the applicants (authorizations). However, none of the authorizations cover the period specified in the access request or specifically contemplate the deceased's medical records being disclosed after they had passed on.

### ***Records in dispute***

[10] The records are 74 pages of clinical notes regarding the medical care the deceased received in March, April, and May of 2024. The records were mostly created by the deceased's physicians. Some of the records contain detailed, granular information regarding the deceased's point-in-time health status and the deceased's personal and family health history. In many cases, the notes appear to have been dictated using voice notation software but were not subsequently edited for grammar, spelling, or clarity.<sup>4</sup>

[11] I can see that two of the records were created shortly after May 21, 2024,<sup>5</sup> and one record was created shortly before March 15, 2024.<sup>6</sup> These three records are technically outside the temporal scope of the access request. However, it is clear to me that they are responsive to the substance of the access request and that the applicants wish to access them. Further, the public body does not submit that any of these records are outside the scope of this inquiry and I find the parties' arguments and evidence apply to and address these records. In this context, I find it is appropriate to consider whether these records should be released to the applicants and will do so below.

### ***Acting on behalf of a deceased person***

[12] Where an access applicant is found to be acting on behalf of a deceased person, the public body will treat the access request as if it were made by the deceased person themselves. If the request is for the deceased person's personal information, concerns about the deceased's personal privacy are less relevant in such a case because FIPPA does not consider the deceased person to be a "third party" to the access request.<sup>7</sup>

---

<sup>4</sup> In most cases this does not impact the overall comprehensibility of the records. However, there are a few places where I have had to infer what is meant by a particular statement that was not captured by the notation software in a clear or comprehensible way.

<sup>5</sup> Records at pp. 1 and 2.

<sup>6</sup> Records at pp. 70-74.

<sup>7</sup> Schedule 1 defines a "third party" as any person, organization, or group, other than the access applicant or a public body to whom the request is made. See also s. 22(1) which protects third party personal privacy from unreasonable invasion resulting from an access request.

[13] But, where an access applicant is not acting on behalf of a deceased person, the public body will treat a request for information about the deceased person as an ordinary arm's-length request for information about a third party.

[14] The procedure for determining whether an access request was made on behalf of a deceased person is set out in s. 5(1)(b) of FIPPA and s. 5 of the Regulation. Section 5(1)(b) states:

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[.]

[15] Section 5(2)(a) of the Regulation specifies that an “appropriate person” may act for a deceased person in relation to s. 5(1)(b) of FIPPA. Who constitutes an “appropriate person” is further set out in s. 5(1) of the Regulation. The relevant portion of that section states:

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[.]

[16] Applying these provisions, previous OIPC orders have developed a two-part test to determine whether an access applicant was authorized to make an access request on behalf of a deceased person:

1. Is the applicant an “appropriate person” under s. 5 of the Regulation?
2. If so, was the applicant acting “on behalf of” the deceased person under s. 5(1)(b) in making the access request?<sup>8</sup>

---

<sup>8</sup> See Order F18-08, *supra* note 2 at para. 10.

[17] Both parts of the test must be met before an applicant can exercise a deceased person's access rights under FIPPA.<sup>9</sup>

*Step One: "appropriate person"*

[18] As set out above, s. 5(1)(a) of the Regulation establishes an order of priority for the types of people who may be an "appropriate person" to exercise a deceased person's access rights under FIPPA.

[19] The parties do not submit that there is or was a committee acting on behalf of the deceased at any relevant time and I see nothing in the submissions or evidence before me indicating that there was.

[20] Turning to whether any of the applicants is the deceased's "personal representative", that term is not defined in FIPPA. However, the *Interpretation Act* defines "personal representative" to include "an executor of a will and an administrator with or without will annexed of an estate."<sup>10</sup>

[21] In the record before me I can see that there is a partial copy of the deceased's will. I can also see that the will names one of the applicants as executor and trustee of the deceased's estate. While the applicants' submissions do not include a grant of administration by any court, I note that the public body does not dispute that the named applicant is the deceased's executor. Moreover, there is nothing in the material before me to suggest that their appointment as the deceased's executor was invalid or that a court has granted administration of the deceased's estate to anyone else.

[22] In these circumstances, I find that the evidence before me establishes that the named applicant is acting as the deceased's executor. As such, I find the named applicant is the deceased's "personal representative" and therefore an "appropriate person" for purposes of s. 5 of the Regulation.

[23] From the information before me, I can also see that the access request was made jointly by the applicants and that the applicants drafted and signed a single, joint, submission in this inquiry. Given this, I find the applicants to be working in concert with one another regarding all aspects of the access request.

[24] As such, I find the presence of the deceased's executor as one of the applicants is sufficient to satisfy the first stage of the test.<sup>11</sup>

---

<sup>9</sup> *Ibid.*

<sup>10</sup> RSBC 1996, c. 238 at s. 29.

<sup>11</sup> I also base this finding, in part, on the principle that disclosure under FIPPA is "disclosure to the world" and does not come with use or dissemination restrictions attached to disclosed records. Therefore, even if I were to order that the records only be released to the executor, there would be nothing stopping the executor from immediately sharing the records with a co-applicant. Given

*Step Two: acting “on behalf of” the deceased*

[25] Having found one of the applicants is an appropriate person to exercise the deceased’s access rights under FIPPA, I must now decide whether the access request was made “on behalf of” the deceased in accordance with s. 5(1)(b).

[26] What it means to act “on behalf of” another person is not defined in FIPPA. However, previous OIPC orders have considered this point and provide guidance. Those orders establish that acting “on behalf of” another person involves acting to the benefit of that person, to further the person’s own goals and objectives, and, ultimately, acting in the person’s best interest.<sup>12</sup> Further, these same orders explain that an access request that is made primarily with an applicant’s own interests in mind has not been made “on behalf of” another person.<sup>13</sup>

[27] Given this, determining whether an applicant was acting on behalf of a deceased person in making an access request clearly involves determining both the desires and interests of the deceased person, and the applicant’s own motives for making the request. Where an applicant can show that their motives are consonant with the desires, interests, and well-being of the deceased person, this will weigh strongly in favour of finding they are acting “on behalf of” the deceased person.

[28] Determining and unearthing an applicant’s motives involves a close analysis of all the relevant material before an adjudicator. Particular attention should be paid to what the applicant said in the access request itself, the evidence and argument provided in the parties’ inquiry submissions, and any evidence regarding how the applicant represented their position in correspondence between them and the other parties in the inquiry or the OIPC.<sup>14</sup> In my view, it is also appropriate for an adjudicator to consider the content of the disputed records themselves where those records have probative value regarding this issue.

Positions of the parties

[29] The public body says the applicants’ stated reason for making the access request has changed over time. Specifically, at the time the access request was made, the public body says, the applicants highlighted a desire for personal closure regarding the deceased’s passing as a major personal motivation. The public body says that it was only when the applicants requested OIPC review of

---

the clear evidence that the applicants are working in concert regarding the access request, I find it very likely the executor would do so.

<sup>12</sup> Order F17-04, 2017 BCIPC 4 at para. 17 and Order F18-08, *supra* note 2 at para. 13.

<sup>13</sup> Order F17-04, *ibid* at para. 20.

<sup>14</sup> See, for example, Order F24-05, 2024 BCIPC 7 at para. 23.

the public body's decision to withhold the records that the applicants began to highlight furthering the deceased's own, alleged, desires as the core of the matter.

[30] Further, the public body says that the applicants should fail on this point even if their main motivation is furthering the deceased's alleged desires. This is so, the public body says, because the applicants have not provided sufficient evidence establishing the actual substance of the deceased's desires. Specifically, the public body says that even if the applicants can establish that the deceased wanted their medical information to be shared with the applicants while the deceased was alive, the applicants have not shown that the deceased wanted this information-sharing to continue after their passing.

[31] In support of its argument, the public body cites OIPC Order F25-79<sup>15</sup> which it says dealt with circumstances that are "indistinguishable" from those before me here. The public body says the adjudicator in that order concluded that evidence showing a deceased person intended an applicant to be involved in their care while the deceased person was alive is not, in itself, also evidence regarding how the deceased person wanted or expected their medical information to be used after they had died.<sup>16</sup>

[32] Taking all of this together, the public body argues that the applicants have not established that the access request was made "on behalf of" the deceased.

[33] In response, the applicants say the public body improperly frames the access request as being motivated by the applicants' own desires. In support of their position that the access request was made in furtherance of the deceased's own interests and desires the applicants assert the following:

- At least one of the applicants was deeply involved in the deceased's care over many years including by attending appointments, sitting in on telephone calls and decision-making sessions with medical professionals, and taking an active role in the deceased's medical treatment under the instruction of the deceased's healthcare providers. This occurred on a consistent and continuous basis;
- At a rate of around once every six months over a period of several years, the deceased completed and submitted the authorizations, which granted one of the applicants access to the precise kinds of information sought in the access request;
- The final authorization was signed in November of 2023, approximately six months before the deceased's passing;

---

<sup>15</sup> 2025 BCIPC 93.

<sup>16</sup> Public body's initial submission at paras. 23-24, citing Order F25-79, *ibid* at para. 33.

- The deceased did not know that a separate, specific authorization for the applicants to continue accessing the deceased's medical information after their passing would be required; and
- The deceased explicitly told the applicants that they were interested in the potential genetic and hereditary implications of the deceased's illness and that they wanted the applicants to gain an understanding of those implications. Further, that the deceased wanted their medical information to be available for medical research and to specifically benefit the deceased's immediate family, including the applicants.

[34] The applicants also provide the following two examples of what they say are the interests and desires of the deceased which motivated the applicants to make the access request:

- The deceased's desire to protect the applicants' own health and well-being by providing them an understanding of any potential hereditary or genetic risks related to the deceased's illness; and
- The deceased's personal interest in their health information being used to promote health research as well as responsible decision-making regarding the deceased's estate.

[35] The applicants assert that the furtherance of these desires and interests is what motivated the access request. Given this, they dispute the public body's submission that their motivation for making the access request has shifted over time. While they acknowledge that the initial access request highlighted their need for closure in the face of the deceased's passing, the applicants say that furthering the deceased's desires and interests outlined above more accurately reflects their primary and consistent motivation. They also note this is the same motivation that was set out in their request for OIPC review.

[36] Finally, the applicants say that Order F25-79 is distinguishable here. In contrast to the adjudicator's finding that there was no evidence of an ongoing posthumous intention that the applicant continue to receive medical information after the passing of the deceased person in that case, the applicants say they have provided clear evidence of such an intention here. They say this evidence is comprised of the authorizations, including their consistency and cadence across the years leading up to the deceased's passing as well as the applicants' recollection of conversations with the deceased where the deceased either expressed or strongly implied such a desire for continued access by the applicants.

[37] In reply, the public body says only that "given the sensitivity of the records in issue and the threshold articulated in past [OIPC orders]" it will await my direction as to whether the applicants in this case are, in fact, acting "on behalf of" the deceased.

---

Analysis and conclusion

[38] For the reasons that follow, I find that the applicants are acting “on behalf of” the deceased.

[39] I agree with the applicants that the authorizations provide clear evidence of a consistent and ongoing desire by the deceased that the applicants have direct access to the deceased’s medical information across the final years of the deceased’s life. If the regular cadence of the authorizations had continued, I am satisfied that the deceased would likely have submitted a new authorization in the Spring or Summer of 2024 and that much of the information in dispute would have been made available to the applicants under that authorization.

[40] I see nothing in any of the material before me to indicate that the deceased’s desire in this regard changed in the time leading up to their passing. On the contrary, I find the contents of the records themselves corroborate the applicants’ submission that at least one of them was, up until the very end, an active participant in the deceased’s healthcare and that this was understood and appreciated by the deceased’s medical team.

[41] I have no reason based on the evidence and submissions before me to doubt the applicants’ honesty when they describe their conversations with the deceased. I also note that while the public body challenges the sufficiency of the applicants’ evidence, it does not challenge the credibility or reliability of that evidence.

[42] Based on what the applicants say, I find their conversations with the deceased touched on the deceased’s concerns regarding potential hereditary or genetic risk to the applicants or others in the deceased’s family. I also accept as reasonable the idea that the deceased would have intended their medical information, including information about their specific disease progression up to and including their death, be available to the applicants so these concerns could be properly considered and addressed.

[43] While I have read what the public body says about Order F25-79 and independently considered the substance of that order, I do not agree with the public body that it is “indistinguishable” from the circumstances before me. On the contrary, the applicants in this matter have provided documentary and testimonial evidence of their deep and consistent relationship with the deceased across the years leading up to the deceased’s passing. I have also found, based on the same evidence, that the substance of this relationship did not diminish in the time leading up to the deceased’s passing.

[44] Further, I find the applicants have demonstrated that this relationship involved conversations about the deceased’s ongoing and future-oriented

interests and desires, and information sharing regarding even small details about the deceased's health, treatment, and disease progression. I also find, as above, that what the applicants say in this regard is corroborated by the content of the records themselves.

[45] In short, I find the evidence provided here goes beyond what the adjudicator describes in Order F25-79. In this case, the applicants have established on a balance of probabilities that the deceased had a desire that the applicants' access to the deceased's medical information would continue after the deceased passed away.<sup>17</sup>

[46] Finally, while I have also read what the public body says about the applicants' allegedly shifting motivations for making the access request, I find that the applicants' explanation of the alleged shift is reasonable. A single statement of an applicant's intent, at an emotionally difficult time, is not dispositive of whether they were acting on behalf of another person in making an access request.<sup>18</sup>

[47] In my view, a personal desire for closure will almost always be one motivation for an access request regarding information about the circumstances of a family member's medical treatment in the time leading up to their death. That is clearly the case here, as is admitted by the applicants. However, I do not see how this precludes me from finding, as I have, that the primary motivation for the access request is the fulfillment of the deceased's own desire that the applicants have access to full information about the deceased's disease progression and treatment.

#### *Conclusion – s. 5(1)(b) and s. 5 of the Regulation*

[48] I have found above that one of the applicants was the executor of the deceased's estate at the time the access request was made. On that basis, I have found that applicant to be the "personal representative" of the deceased and, therefore, an "appropriate person" to make the access request under s. 5 of the Regulation. I have also considered the fact that the applicants submitted their access request jointly and prepared a joint inquiry submission. As such, I have found the status of one applicant as the deceased's executor to be sufficient to satisfy the first stage of the test in this case.

---

<sup>17</sup> I also note that the access request at issue in Order F25-79, *supra* note 15 was a broad request for information spanning a 12-year period. Here, the request is much more circumscribed, precisely because of the established relationship of medical information-sharing between the deceased and the applicants in the years leading up to the deceased's passing.

<sup>18</sup> See Order F24-05, *supra* note 14 at para. 23 regarding the need to consider and weigh all of the evidence regarding an applicant's intentions.

[49] Taking all the evidence and principles discussed above into account, I have determined that the applicants made the access request “on behalf of” the deceased as required by s. 5(1)(b). Therefore, the access request at issue in this inquiry must be treated by the public body as a request by the deceased for their own medical records.

[50] Given this, I find the public body is not authorized or required by FIPPA to withhold any of the disputed records and must release them to the applicants.<sup>19</sup>

## **CONCLUSION**

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

1. The public body must release all of the records in dispute to the applicants.
2. The public body must concurrently copy the OIPC registrar of inquiries on its cover letter to the applicants, together with a copy of the records described at item 1 above.

[52] Pursuant to s. 59(1) of FIPPA, the public body is required to comply with this order by July 2, 2026.

May 20, 2026

## **ORIGINAL SIGNED BY**

\_\_\_\_\_  
Alexander Corley, Adjudicator

OIPC File No.: F24-98660

<sup>19</sup> I have considered whether any of the information in the records is the personal information of individuals other than the deceased which must be withheld under s. 22(1) of FIPPA. However, I have found in each case that such information is either about the applicants and ought to be released to them on that basis, was provided to the deceased’s medical team by either the applicants or the deceased, and ought to be released on that basis, or is basic factual information about things said or done by members of the deceased’s medical team in the course of their employment and must be released under s. 22(4)(e) (information about a public body employee’s position, functions, or remuneration). I also note that the public body does not argue that any of the information in dispute must be withheld under s. 22(1) as the “personal information” of anyone other than the deceased.