



Order F26-43

Fraser Health Authority

Alexander R. Lonergan
Adjudicator

May 25, 2026

CanLII Cite: 2026 BCIPC 55
Quicklaw Cite: [2026] B.C.I.P.C.D. No. 55

Summary: An applicant requested that the Fraser Health Authority (Fraser Health) provide access under the *Freedom of Information and Protection of Privacy Act* (FIPPA) to the medical records of his deceased spouse (the Deceased). Fraser Health determined that the applicant did not make the request on behalf of the Deceased under s. 5(1)(b) of FIPPA and s. 5 of the *Freedom of Information and Protection of Privacy Regulation* (Regulation), and refused to disclose the records under s. 22(1) (unreasonable invasion of third-party personal privacy) of FIPPA. The adjudicator found that the applicant made the access request on behalf of the Deceased under s. 5(1)(b) of FIPPA and s. 5 of the Regulation. The adjudicator further determined that Fraser Health was not required to withhold any information under s. 22(1). The adjudicator ordered the public body to disclose the records to the applicant.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165 at ss. 5 and 22(1); *Freedom of Information and Protection of Privacy Regulation*, BC Reg 155/2012 at s. 5; *Interpretation Act*, RSBC 1996, c 238 at s. 29; *Wills, Estates and Succession Act*, SBC 2009, c 13 at s. 150(2); Supreme Court Civil Rules, BC Reg 168/2009 at Rule 1-1(1).

INTRODUCTION

[1] An applicant asked the Fraser Health Authority (Fraser Health) for access to all health records of his deceased spouse (the Deceased), relating to care the Deceased received in 2023 and 2024 at Burnaby Hospital, which is a hospital operated by Fraser Health.

[2] Fraser Health refused to disclose the requested records because it decided that the applicant did not make the request on behalf of the Deceased under s. 5(1)(b) of the *Freedom of Information and Protection of Privacy Act* (FIPPA) and s. 5 of the *Freedom of Information and Protection of Privacy*

Regulation (Regulation).¹ After considering the applicant's request as a request for records about a third party, Fraser Health refused to disclose the responsive record under s. 22(1) (unreasonable invasion of third-party personal privacy) of FIPPA.

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

Preliminary Matter, Request to Provide Supplemental Submission

[4] The applicant asks for permission to submit a sur-reply to Fraser Health's reply submission. The applicant argues that Fraser Health's reply raises new issues that were not addressed in its initial submission, including new arguments about the interpretation of s. 5(1)(b), reliance on authorities not previously cited, and new positions concerning the potential application of s. 22(2)(b) to the records in dispute.²

[5] Fraser Health opposes the applicant's request to provide a sur-reply. Fraser Health argues that it did not raise new issues or arguments in its reply submission and that any such arguments directly respond to what the applicant said in his response submission.³

[6] The OIPC's *Instructions for Written Inquiries*⁴ were provided to the parties at the outset of the inquiry and explain that an applicant receives one opportunity to provide a written submission. Exceptional circumstances which could lead to the OIPC permitting additional inquiry submissions may include situations where the parties identify a new issue that the adjudicator accepts into the inquiry or if fairness requires that a party receive an additional opportunity to explain their position.⁵

[7] The basis for the applicant's request is that Fraser Health has introduced new arguments, positions, and authorities in its reply submission. I have carefully reviewed that submission and find that it does not change or introduce any new legal positions taken by Fraser Health regarding the issues in dispute, namely, ss. 5 and 22. In addition, Fraser Health has not raised a new issue by providing arguments and authorities to support these positions, including the arguments about specific subsections of ss. 5 or 22 or its rebuttal of the applicant's arguments.

¹ Freedom of Information and Protection of Privacy Regulation, BC Reg 155/2012.

² Applicant's email to OIPC registrar of inquiries, February 25, 2026.

³ Fraser Health's email to OIPC registrar of inquiries, February 25, 2026.

⁴ Both parties received a copy of the instructions at the outset of the inquiry. Available online at: <https://www.oipc.bc.ca/documents/guidance-documents/1658>

⁵ For example, see: Order F25-52, 2025 BCIPC 60 (CanLII) at para 6.

[8] I find that Fraser Health has not raised any new issues, arguments, authorities or evidence in its reply submission that would justify allowing the applicant to provide a sur-reply. I also do not see the kinds of exceptional circumstances or fairness concerns that could nonetheless justify providing the applicant with a sur-reply. Consequently, I decline the applicant's request to provide a sur-reply.

DISCUSSION

Background⁶

[9] The applicant is the spouse of the Deceased and the executor of the Deceased's Last Will and Testament (Will).⁷

[10] The Deceased suffered from health problems in 2023 and 2024, causing her to visit the emergency department of Burnaby Hospital where she received medical care. The Deceased unexpectedly passed away shortly after being discharged from Burnaby Hospital in the spring of 2024.

[11] The applicant subsequently visited Burnaby Hospital and asked Fraser Health to release "[all] records concerning the death of [the Deceased] at Burnaby Hospital for the years 2023 and 2024" (the Records). After Fraser Health denied the applicant immediate access to the Records, the applicant submitted a formal written request for access under FIPPA using a form provided by Fraser Health.

[12] Fraser Health once more denied access to the Records on the basis that the applicant had not demonstrated that he was acting on behalf of the Deceased under s. 5 of FIPPA, and that disclosure would be an unreasonable invasion of the Deceased's personal privacy under s. 22(1) of FIPPA.⁸

[13] At the time of this inquiry, there are two related matters that the parties discuss in their submissions. First, the applicant provided a copy of a court document from a civil claim in the BC Supreme Court in which the applicant and the Deceased's children are plaintiffs. The defendants in the civil claim are physicians. While Fraser Health is not a defendant in the civil claim, it is the subject of a document production order. Secondly, the applicant refers to a report by the College of Physicians and Surgeons of British Columbia which he says

⁶ The information in this background section is based on information provided in the parties' submissions and evidence. It is not information that is in dispute.

⁷ Affidavit #1 of Release of Information Advisor, at Exhibit "A".

⁸ Health Information Management letter to the applicant dated August 1, 2024. Health Information Management is a department of Providence Healthcare Society, which is a service provider of information management services to Fraser Health. Fraser Health is the only public body in this matter.

identifies concerns about the medical care provided to the Deceased at Burnaby Hospital.

Records and Information at Issue

[14] The Records consist of 41 pages of the Deceased’s medical records, including notes, diagnostic information, instrument readings, and test results.

Issues and Burden of Proof

[15] The issues I must decide in this matter are the following:

1. Is the applicant acting on behalf of the Deceased in accordance with s. 5(1)(b) of FIPPA and s. 5 of the Regulation?
2. Is Fraser Health required to refuse to disclose the disputed information under s. 22(1)?

[16] FIPPA does not specify which party has the burden to prove that an applicant is acting on behalf of another individual under s. 5(1)(b) of FIPPA and s. 5 of the Regulation. In these circumstances, past orders say that both parties are responsible for providing their best arguments and evidence to support their positions.⁹ Consistent with the approach of past orders, I will not impose a burden of proof on either party with respect to s. 5.

[17] Section 57(2) places the burden on the applicant to establish that disclosure of the information Fraser Health has withheld under s. 22(1) would not be an unreasonable invasion of a third party’s personal privacy.¹⁰ However, as the public body in this matter, Fraser Health has the initial burden of proving that the information it has withheld under s. 22(1) is personal information.¹¹

AUTHORITY TO ACT ON BEHALF OF A DECEASED INDIVIDUAL – s. 5(1)(b)

[18] Section 5(1)(b) of FIPPA explains how an applicant may make an access request on behalf of another person:

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

...

⁹ Order F24-22, 2024 BCIPC 28 (CanLII) at para 5; Order F18-08, 2018 BCIPC 10 (CanLII) at para 7; Order F07-10, 2007 CanLII 30395 (BC IPC) at paras 10-11.

¹⁰ Schedule 1 of FIPPA says that a “third party” in relation to a request for access to a record or for correction of personal information means any person, group of persons or organization other than the person who made the request, or a public body.

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

- (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 ...

[19] Section 5(2)(a) of the Regulation provides that an “appropriate person” may act for a deceased person in relation to a request for access to records under s. 5 of FIPPA. Section 5(1)(a) of the Regulation sets out the process for determining who is an “appropriate person”.

[20] Relying on these sections of FIPPA and the Regulation, past OIPC orders have established a two-part test for an applicant to exercise a deceased person’s access rights.

[21] First, the applicant must be an “appropriate person” under the Regulation. Second, the applicant’s access request must have been made “on behalf of” the deceased person under s. 5(1)(b) of FIPPA.¹² If the two-part test is not met, then the access request is treated as an ordinary, arm’s-length request by one individual for another’s personal information.¹³

Is the applicant an appropriate person?

[22] As noted above, the process for determining who is an “appropriate person” is set out in s. 5(1) of the Regulation:

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.

[23] There is no suggestion or evidence that a committee acted for the Deceased. Therefore, the Deceased’s personal representative would be the next individual deemed to be an “appropriate” person under the Regulation.

¹² Order F18-08, 2018 BCIPC 10 (CanLII) at para 10; Order F22-42, 2022 BCIPC 47 (CanLII) at para 16.

¹³ Order F23-92, 2023 BCIPC 108 (CanLII) at para 27; Order F24-22, 2024 BCIPC 28 (CanLII) at para 12.

[24] The term “personal representative” is defined in the *Interpretation Act* as including an executor of a will.¹⁴ The applicant attached a copy of the Deceased’s death certificate and the Will, both to his original access request and to his request for review that he sent to the OIPC.¹⁵ While the applicant did not include a court-issued grant of probate confirming his appointment as executor, he did provide a BC Supreme Court order from a different proceeding that names him as the “spouse and executor of the will of [the Deceased]”. Moreover, there is nothing before me suggesting that the applicant required a court-issued grant of probate in order to administer the Deceased’s estate, that the applicant’s appointment as executor is invalid, or that a court has granted administration of the Deceased’s estate to anyone else.

[25] Taking these circumstances into account, I find that the applicant is acting as the executor of the Will and the Deceased’s estate. Consequently, I find that the applicant is the Deceased’s “personal representative”, and therefore an “appropriate person” under the s. 5 of the Regulation.¹⁶

Was the access request made “on behalf of” the Deceased?

[26] Having determined that the applicant is an appropriate person under s. 5 of the Regulation, I must now determine whether the applicant made his request “on behalf of” the Deceased as required by s. 5(1)(b) of FIPPA.

[27] FIPPA does not define what it means to act “on behalf of” another individual. Past orders have interpreted this term to mean acting to benefit the other individual, to further the other individual’s own goals or objectives, and acting in the other individual’s best interest.¹⁷ Additionally, if an applicant requests information to further their own interests, past orders say this is not enough to establish they are acting on behalf of another individual.¹⁸

Parties’ Submissions, Acting on Behalf of the Deceased

[28] The applicant argues that the stated purposes of his access request include understanding the circumstances of the Deceased’s death, addressing

¹⁴ *Interpretation Act*, RSBC 1996, c 238, s. 29.

¹⁵ Affidavit #1 of Release of Information Advisor, at Exhibit “A”.

¹⁶ Fraser Health acknowledges that the applicant is the Deceased’s spouse and therefore the nearest relative of the Deceased under s. 5(1)(a)(iii) of the Regulation. Notwithstanding my finding that the applicant is instead an appropriate person under s. 5(1)(a)(ii) of the Regulation, I note that the conclusion would have been the same under either ss. 5(1)(a)(ii) or (iii).

¹⁷ Order F24-22, 2024 BCIPC 28 at para 19, Order F24-05, 2024 BCIPC 7 (CanLII) at para 27, Order F18-08, 2018 BCIPC 10 (CanLII) at paras 12-13 relying on Order F17-04, 2017 BCIPC 4 (CanLII) at para 17.

¹⁸ Order F22-42, 2022 BCIPC 47 at para 23; Order F17-04, 2017 BCIPC 4 (CanLII) at paras 18-20; Order F07-16, 2007 CanLII 35477 (BC IPC) at paras 19-20; Order 02-44, 2002 CanLII 42478 (BC IPC) at paras 39-40.

potential hereditary risks for his and the Deceased's children, and pursuing potential legal claims on behalf of the Deceased's estate. The applicant says that these purposes are all consistent with the duties of an executor.¹⁹

[29] Fraser Health's position is that the applicant was not acting on behalf of the Deceased when he made the access request. Fraser Health says that the applicant "has not sufficiently explained his motive for the access request, including how it is in [the Deceased's] best interests, what her goals or objectives were, or how the request for records would further those goals or objectives".²⁰

Procedural Objection - Expanded Reasons for Access Request

[30] Fraser Health argues that the applicant is raising new, expanded reasons for the access request in this inquiry that Fraser Health did not consider when it made its decision to deny access. As a matter of procedural fairness, Fraser Health asks that I only consider the applicant's reasons insofar as the applicant provided reasons in his original access request. In support of this argument, Fraser Health refers to the *Notice of Inquiry* which provides that parties may not add new exceptions or issues into the inquiry without the OIPC's prior consent.²¹ The applicant did not address this objection from Fraser Health in his submission.

[31] For the following reasons, I disagree with Fraser Health's position and reject its request that I disregard large portions of the applicant's submission.

[32] The legal issues that require my decision are whether the applicant is acting on behalf of the Deceased in making his request and whether s. 22(1) applies to any part of the disputed records. For greater clarity, I am not assessing the reasonableness of Fraser Health's decision to refuse access in light of the evidence it had before it when it made its decision. Rather, I am deciding whether certain provisions of FIPPA apply to the applicant's request with regard to all of the evidence and arguments properly brought to my attention.

[33] Fraser Health's position is essentially an argument that I should treat the applicant's submission with suspicion because it includes more information about his motivation for the request than he initially provided to Fraser Health. The applicant submitted the access request using Fraser Health's template form which contains one line of space entitled "REASON FOR REQUEST:". On that line, the applicant wrote "TO OBTAIN MY LATE WIFE'S MEDICAL RECORDS

¹⁹ Applicant's submission at para 19.

²⁰ Fraser Health's initial submission at paras 13 and 15.

²¹ *Ibid* at paras 14-15.

AND LEGAL PURPOSES”.²² This answer filled the entire single line of space in the form that is allocated for explaining the purpose for a request.

[34] While Fraser Health argues that it would be unfair to allow the applicant to elaborate on his reasons beyond those in the template form, in my view, fairness requires the opposite approach. I think it would be fundamentally unfair to constrain the access applicant to one line of explanation on Fraser Health’s request form, and then forever hold him to the precise words that he chose during an emotionally challenging time.

[35] If Fraser Health intended the words “REASON FOR REQUEST” as an instruction to the applicant that he must explain how his request is being made “on behalf of” the Deceased, then I find those words to be completely inadequate for that purpose. Moreover, it is unreasonable to expect an access applicant to provide that information in a single line of space and without any further opportunity to elaborate.

[36] The proper approach to this issue is not to disregard what the applicant says in his submission. Instead, I will approach the evidence with an open mind while considering whether the parties have taken any conflicting positions in their submissions and original access request or response.

[37] In addition to the matters discussed above, I am also of the view that excluding parts of the applicant’s submission would:

- Interfere with the applicant’s right to provide written representations in a proceeding which affects his rights;
- Deny me the ability to take all relevant circumstances into consideration while deciding the questions of fact and law in this inquiry; and
- Fail to advance FIPPA’s purpose of giving individuals a right of access to personal information about themselves (including the Deceased’s right of access through their representative).

[38] For all of these reasons, I decline Fraser Health’s request that I disregard the portions of the applicant’s submission that explain and elaborate upon his claimed reasons for requesting access to the Records.

Analysis and Findings, Acting on Behalf of the Deceased

[39] As noted above, the applicant raises three reasons motivating the access request. Those reasons are addressing potential hereditary risks for the Deceased’s children, understanding the circumstances of the Deceased’s death,

²² Applicant’s access request, July 15, 2024; Affidavit #1 of Release of Information Advisor, at Exhibit “A”.

and pursuing potential legal claims on behalf of the Deceased's estate. I will consider each claimed reason in turn below.

Reason #1 - Medical Care of the Deceased's Children

[40] First, the applicant explains that his and the Deceased's two children each have significant congenital medical conditions. One of those conditions affects a bodily organ whose malfunction is described by the applicant as the Deceased's "most probable cause of death". Given that the applicant's children are also the Deceased's children, the applicant argues that "[understanding] the Deceased's medical history is directly relevant to the children's ongoing medical care and potential hereditary risks".²³ The applicant also says that addressing hereditary risks for the children is directly connected to his legal responsibilities as the Deceased's executor.²⁴

[41] I have no evidence in this case that the Deceased expressed a desire for her medical information to be disclosed for the purposes of her children's health. However, even if she had done so, the applicant does not clearly explain how disclosing the actual information in dispute, which I have found is about the Deceased's diagnoses, test results and treatment received at a hospital, would help identify potential hereditary risks for the children or otherwise assist with their medical treatment. Further, the applicant's submission makes clear that the children's medical care professionals are already aware of the congenital conditions affecting them and the specific organs that require monitoring. While I understand that a review of a family's medical history is a common diagnostic tool, the applicant provides no supporting evidence or explanation that indicates how access to the withheld records could reasonably enhance the children's medical care. Therefore, even if I accept that supporting the health of the Deceased's children was a goal of the Deceased and is in the Deceased's interest, I am not persuaded that disclosure would meaningfully advance that goal.

[42] Finally, the Deceased's children are adults.²⁵ This is not a situation where the applicant must, as the Deceased's executor, provide temporary care for her minor children until a suitable guardian is found. Similarly, there is nothing in the material before me to indicate that the Deceased's children require adult guardianship.

²³ Applicant's submission at paras 11-12.

²⁴ *Ibid* at para 33.

²⁵ The date of the Deceased's Will, included as Exhibit "A" of Affidavit #1 of Release of Information Advisor, along with the fact that the Will names the Deceased's children more than 19 years ago, means that they must have attained the age of majority at the time of this inquiry. Moreover, the Court Order that the applicant provided with his submission expressly names the Deceased's children as adult children of the Deceased.

[43] For all of these reasons, I am not persuaded that disclosure is necessary to help the applicant discharge an executor's duty to care for the welfare of the Deceased's children or that disclosure would otherwise support the children's overall health and well-being. Consequently, I find that the claimed purpose of supporting the Deceased's children's medical care, is not sufficient to establish that the applicant made this access request on behalf of the Deceased.

Reason #2 – Understanding the Circumstances of Death

[44] The second reason that the applicant gives for his access request is that disclosure is necessary to understand the circumstances of the Deceased's death.

[45] The applicant explains that access is "necessary to understand the sequence of events that led to her death and to determine whether systemic issues contributed to the outcome." The applicant also says that disclosure would help to ensure that "similar errors are not repeated, thereby promoting patient safety and serving the broader public interest".²⁶

[46] Past orders have consistently rejected arguments of this nature if there is no corroborating evidence to establish that the deceased person wanted others to understand the specific circumstances of their death or that they held accountability of the medical system as a goal during their lifetime.²⁷

[47] The applicant has not presented any evidence that persuasively establishes the Deceased held these goals or wanted her personal medical information to be used for these purposes. Rather, the applicant argues that there is no requirement under FIPPA or the Regulation that an executor must prove the Deceased's specific intentions or provide evidence of her goals or objectives. He states that "[an] executor always acts on behalf of the deceased" and that, as her executor, he stands in the Deceased's "legal shoes".²⁸ In reply, Fraser Health points to past OIPC orders which distinguish between actions taken on behalf of a deceased person and actions taken on a representative's own behalf.²⁹

[48] The applicant does not cite any authority to support his argument that an executor *always* acts on behalf of a deceased and I am not persuaded that is true. It is obviously possible for an executor to take actions on their own behalf or on behalf of someone who is not the deceased person that they are appointed to represent.

²⁶ Applicant's submission at paras 26-27.

²⁷ Order F24-05, 2024 BCIPC 7 (CanLII) at paras 25-26; Order F23-80, 2023 BCIPC 96 (CanLII) at paras 15-16; and Order F22-42, 2022 BCIPC 47 (CanLII) at paras 27-29.

²⁸ Applicant's submission at paras 16-19.

²⁹ Fraser Health's reply submission at para 2.

[49] I am not persuaded that systemic accountability and personal understanding among family members are objectives held by Deceased, nor do I find that disclosure would advance such objectives. Therefore, in the absence of specific evidence establishing that the Deceased actually desired that their medical information be released to advance the goals set out by the applicant under this heading, I find that the applicant's mere reference to these goals does not establish that he made the access request on behalf of the Deceased.

Reason #3 – Evaluating Legal Claims on Behalf of the Estate

[50] The third and final reason the applicant provides for having made his access request, is “evaluating potential legal claims on behalf of the estate”.³⁰

Authority to Prosecute Claims on Behalf of an Estate

[51] As a starting point, I accept that the applicant is entitled to commence civil claims for compensation on behalf of the Deceased under the *Wills, Estates and Succession Act* (WESA) because he is the executor of the Deceased's estate.³¹

[52] Given that, I must consider the following issues in order to determine whether the request was made on behalf of the Deceased:

1. Whether the applicant's motivation for the access request is to evaluate potential legal claims on behalf of the Deceased? And, if so:
2. Whether evaluating such potential legal claims would reasonably be in the best interest of the Deceased, confer a benefit upon the Deceased, or further the Deceased's personal goals or objectives?

Applicant's Intention to Evaluate Legal Claims

[53] Fraser Health says that the applicant has not provided an “adequate evidentiary foundation” to support his claimed intention to pursue litigation on behalf of the estate.³²

³⁰ Applicant's submission at paras 19, 25, 33, and 40.

³¹ *Wills, Estates and Succession Act*, SBC 2009, c 13. With limited exceptions, s. 150(2) of WESA confirms that a personal representative may commence a proceeding that a deceased person could have commenced with the same rights and remedies to which the deceased person would have been entitled if living. Neither WESA nor the *Interpretation Act* define “proceeding”, but the *BC Supreme Court Civil Rules*, BC Reg 168/2009, which govern estate litigation proceedings in BC, define a “proceeding” as “an action, a petition proceeding and a requisition proceeding, and includes any other suit, cause, matter, stated case under Rule 18-2 or appeal” at Rule 1-1(1).

³² Fraser Health's initial submission at paras 17-19.

[54] In support of this point, Fraser Health refers to OIPC Order F25-55 and argues that, unlike the situation in that inquiry, there is no evidence here that the Deceased had an intention for the applicant, as executor, to inquire into circumstances that may give rise to assets of her estate.³³ I understand this argument to mean that, from Fraser Health's perspective, the applicant has not proven that the Deceased intended the applicant to evaluate legal claims that may generate financial assets for her estate.

[55] Finally, Fraser Health says that the applicant has not explained the kind of proceeding he would pursue using the requested information, what the legal basis for that proceeding would be, or what remedy he would be seeking on behalf of the Deceased.³⁴

[56] Beginning with the access request, as noted above, the applicant wrote that the purpose of his request was "TO OBTAIN MY LATE WIFE'S MEDICAL RECORDS AND LEGAL PURPOSES". The applicant submitted this request to Fraser Health, which is the public body that operates the hospital where certain physicians provided the Deceased with what he alleges was inadequate medical care.

[57] Considering the very small amount of space available on the request form, I find it reasonable to assume that the "legal purposes" the applicant had in mind at that time were related, at least in part, to any potential impropriety surrounding the circumstances of the Deceased's death. As such, I find that what the applicant wrote on the access request form is consistent with and supports his argument that his motive for making the request is to evaluate legal claims on behalf of the Deceased's estate.

[58] Additionally, I note that in his request for review to the OIPC, the applicant expressly mentioned the prospect of taking legal action on behalf of the Deceased was a motivation for the access request.³⁵

[59] The applicant also points to other circumstances and evidence that he says show his motivation for making the access request was to evaluate legal claims on behalf of the Deceased's estate. Specifically, the applicant says that a November 6, 2025 report by the *College of Physicians and Surgeons of British Columbia* (the College Report) identified concerns about the medical care provided to the Deceased, "including the failure to recognize signs consistent with [a specific medical condition], the most probable cause of death."³⁶

³³ Fraser Health's initial submission at para 19.

³⁴ *Ibid.*

³⁵ Applicant's email to OIPC intake, August 15, 2024. For clarity, this email was sent one day after the applicant sent an initial letter to the OIPC requesting a review of Fraser Health's decision. The email indicates that the purpose of the email was to provide the OIPC with additional information and a copy of the original written complaint he submitted to Fraser Health.

³⁶ Applicant's submission at paras 11, 26, and 34.

[60] The applicant did not provide a copy of the College Report for my review so I cannot determine whether it has the evidentiary value that he says it does. However, it is significant that the applicant is aware of the College Report and has assessed its evidentiary value for a prospective legal claim brought on behalf of the Deceased's estate. I find that these are circumstances which further indicate a genuine intention on the part of the applicant to access the Deceased's medical records for the purpose of evaluating legal claims.

[61] Next, the applicant provided a copy of a BC Supreme Court order dated December 18, 2025, (the Production Order). The applicant is one of the plaintiffs in the underlying lawsuit in his role as executor of the Deceased's estate. From my review, I can further see that the Production Order requires Fraser Health, operating Burnaby Hospital, to disclose the Deceased's medical records to the defendants but not to the plaintiffs.

[62] The applicant has not provided a detailed description of the litigation that underlies the Production Order. Nevertheless, the existence of this Production Order in a lawsuit where the applicant is a plaintiff in his role as the Deceased's executor, strongly supports his claim that the access request is motivated by a genuine intention to evaluate legal claims on behalf of the Deceased's estate. Given Fraser Health is itself the subject of the Production Order, I cannot understand or accept its argument that there are no circumstances that support my finding the access request is motivated by an intention to evaluate legal claims on behalf of the Deceased's estate.³⁷

[63] I find that the Production Order establishes that the applicant has begun to take legal action on behalf of the Deceased's estate and that the Court has already found that the disputed records have at least some relevance to that legal action and its outcome. In my view, this strongly supports the applicant's position that he has a genuine intention to access the disputed records for legal purposes related to the Deceased's estate.

[64] Taking all of the circumstances discussed above into account, I do not agree with Fraser Health's argument that this reason for the applicant's access request is inconsistent with the reasons given in the request form. I find that the applicant seeks access to the disputed records for the genuine purpose of evaluating legal claims on behalf of the Deceased's estate.

Deceased's Objectives, Goals, Benefits and Best Interest

³⁷ Fraser Health addressed the Production Order at para 3 of its reply submission only in the context of s. 22 and to rebut the applicant's argument that Fraser Health has taken inconsistent positions with respect to the same records, neither of which are relevant to the s. 5 analysis.

[65] The final step of this analysis is to determine whether evaluating legal claims on behalf of the Deceased's estate would further a personal goal or objective of the Deceased, benefit the Deceased, or is otherwise in the Deceased's best interest.

[66] In this matter, it is obviously challenging to determine whether the Deceased had the specific objective of prosecuting a legal claim related to her own cause of death because she passed away unexpectedly. To determine a deceased person's interests and objectives, past OIPC orders have considered the available evidence of what a deceased person expressed as their interests and objectives during their lifetime.³⁸

[67] For example, in Order F25-55, an applicant sought access to a deceased person's medical records to pursue compensation for an injury sustained while receiving medical care. As the deceased person's executor, the applicant in that matter argued it was his obligation to take inventory and estimate the value of all estate assets. As evidence of the deceased person's objectives, the adjudicator considered the fact that the deceased person left instructions in their will which directed the executor to gather and realize assets and ultimately distribute those assets to the named beneficiaries of their estate. The adjudicator was satisfied that there was a potential asset of the estate in the proposed claim for compensation, ultimately finding that the request was made on behalf of the deceased because accessing the medical records was the logical first step in making a claim to realize that financial asset.³⁹

[68] Fraser Health argues that the present inquiry is distinguishable from the circumstances of Order F25-55. It says that unlike the situation in F25-55, the applicant in this matter has not provided evidence of the Deceased's intention to inquire into circumstances that may give rise to assets of the estate.⁴⁰

[69] Having reviewed the Will, I can see that Deceased named individual beneficiaries by priority and directed that the entire residue of her estate be distributed to those beneficiaries after payment of all debts and testamentary expenses. Furthermore, the Will refers to "ALL [the Deceased's] property, both real and personal, of whatsoever nature, kind and description and wheresoever situate, and over which [the Deceased] may have any power of appointment."⁴¹ I find that this language was clearly drafted to capture all possible forms of assets, including assets that have not vested or which take the form of a right to assert claims for compensation on the Deceased's estate's behalf.

³⁸ Order F24-05, 2024 BCIPC 7 (CanLII) at para 23; Order 03-07, 2003 CanLII 49171 (BC IPC) at paras 16-17; Order F25-28 2025 BCIPC 34 (CanLII), at paras 42-43.

³⁹ Order F25-55, 2025 BCIPC 64 (CanLII) at paras 32-39.

⁴⁰ Fraser Health's initial submission at para 19.

⁴¹ Affidavit #1 of Release of Information Advisor, at Exhibit "A".

[70] In addition, I have also considered the fact that the applicant is the highest priority beneficiary under the terms of the Will. This means that the applicant has a personal interest in the outcome of any claims for compensation due to the estate because a successful claim will increase the financial assets that ultimately flow to him. However, the terms of the Will plainly establish that the Deceased's own objective was to distribute her assets to the applicant if he survived her. Therefore, I do not think the fact that the applicant's financial well-being is an objective shared by the applicant and the Deceased reduces the reality of that objective for the Deceased.⁴²

[71] After considering the available evidence and parties' arguments, I conclude that evaluating a legal claim for compensation on behalf of the Deceased's estate, would further a personal objective of the Deceased. I accept that reviewing the Deceased's medical records will reasonably assist the applicant in fulfilling his task as the Deceased's executor to evaluate potential legal claims brought on behalf of the Deceased's estate. I find that providing this kind of assistance to the applicant would further the Deceased's objective of realizing and distributing all of the Deceased's assets under the Will, including assets which take the form of a right to bring claims for compensation on behalf of the Deceased and her estate.

Conclusion, s. 5(1)(b)

[72] For the reasons given above, I find that the applicant made the request for the disputed records "on behalf of" the Deceased. As such, Fraser Health must process the access request as a request by the Deceased for their own medical records.

UNREASONABLE INVASION OF THIRD-PARTY PRIVACY – s. 22

[73] In this matter, I determined that the applicant was acting on behalf of the Deceased in making his request so he is entitled access to the same information as the Deceased. Consequently, I do not need to consider whether disclosure to the applicant might unreasonably invade the Deceased's personal privacy. While I have read all of the parties' submissions, it is unnecessary for me discuss those aspects of their submissions that are about the Deceased's personal privacy.

[74] Fraser Health's arguments under s. 22 are limited to a discussion of the Deceased's personal information.⁴³ Fraser Health's submissions do not discuss whether disclosure would be an unreasonable invasion of any other third parties' personal privacy.

⁴² For a similar conclusion, see Order 03-07, 2003 CanLII 49171 (BC IPC) at para 16.

⁴³ Fraser Health's initial submission at para 24.

[75] I can see that there are some names, titles, and phone numbers of medical professionals in the disputed records. The location and context of these names indicates that these professionals conducted or reviewed certain medical assessments and recorded the results. I will consider whether giving the applicant access to the Records would be an unreasonable invasion of these third parties' personal privacy under s. 22(1).

[76] Past orders have established the analytical approach to s. 22, which I will follow in this matter.⁴⁴

Section 22(1) – Personal Information

[77] The first step in the s. 22 analysis is to determine whether the information in dispute is “personal information” within the meaning of FIPPA.

[78] Schedule 1 of FIPPA defines personal information as “recorded information about an identifiable individual other than contact information.” 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.”

[79] The disputed records include a small number of names, titles, and work phone numbers of various medical professionals. This type of information may be considered “contact information” depending on the context in which it appears.⁴⁵

[80] In the circumstances of this matter, the titles, names, and phone numbers on the Deceased's medical assessment forms are clearly intended to enable other medical professionals and hospital staff to contact the third party who conducted each assessment.

[81] Given my finding above that the applicant wishes to review the disputed records for evidence of allegedly deficient medical care provided to the Deceased, I understand that the appearance of the professionals' names in the disputed records could *possibly* reveal professional mistakes or incomplete assessments by those professionals.

[82] Notwithstanding this possibility, I find that the titles, names and phone numbers are contact information in the context of this case. There is not enough explanation or evidence in the parties' submissions for me to conclude that this information has any reasonable significance for the civil liability or professional status of the named medical professionals. Moreover, there is nothing on the

⁴⁴ Each step of the analytical approach to s. 22 is described in greater detail in Order F15-03, 2015 BCIPC 3 (CanLII) at para 58.

⁴⁵ Order F20-13, 2020 BCIPC 15 (CanLII) at para 42.

face of the Records that indicates anything to me about the quality of care provided to the Deceased.

Section 22(1) - Conclusion

[83] I determined that the third-party names, titles, and phone numbers in the disputed records are contact information and not personal information. Therefore, s. 22(1) does not apply to that information and Fraser Health is not required to refuse to disclose it.

[84] I find that all the other personal information in the disputed records is the personal information of the Deceased alone and Fraser Health is not required to withhold it under s. 22(1) because the applicant, as an appropriate person, made the access request “on behalf of” the Deceased.

CONCLUSION

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

1. I require Fraser Health to disclose the requested records to the applicant who is acting on behalf of the Deceased pursuant to s. 5(1)(b) of FIPPA and s. 5 of the Regulation.
2. Fraser Health is not required to withhold any information in the records from the applicant under s. 22(1).
3. Fraser Health must concurrently copy the OIPC registrar of inquiries on the cover letter and records it gives the applicant in compliance with item #1 above.

Pursuant to s. 59(1) of FIPPA, Fraser Health is required to comply with this order by July 6, 2026.

May 25, 2026

ORIGINAL SIGNED BY

Alexander R. Lonergan, Adjudicator

OIPC File No.: F24-98273