

**REPORT WITH RESPECT TO THE APPLICATION
FOR REVIEW OF ██████████ IN RELATION TO INFORMATION
REQUESTED FROM SASKATCHEWAN HEALTH**

[1] On May 1, 2002, ██████████ (the "Applicant") filed with Saskatchewan Health (the "Respondent") an Access to Information Request Form requesting the following:

"information provided or prepared by the department showing recommendations on the appointments of members of the new Regional Health Authorities, for each region."

[2] By letter dated June 28, 2002 the Respondent replied as follows:

"Your Freedom of Information (FOI) Access Request was received at this office on May 3, 2002. I note that your application requested the following:

"Recommendations on Appointments. Please send me a copy of the information provided or prepared by the dept. showing recommendations on the appointments of members of the new Regional Health Authorities, for each region."

On May 28, 2002 we notified you that the response time of 30 days had been extended another 30 days to **July 2, 2002** in accordance with subsection 12(1)(b) of The Freedom of Information and Protection of Privacy Act. We are now able to provide you with a response.

Please find attached records provided or prepared by Saskatchewan Health showing recommendations on the appointments of board members of the new Regional Health Authorities. You will note that some sections of these records have been severed. The severing was done pursuant to section 17(1)(a) of the FOI Act. Section 17(1)(a) states:

17(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

- (a) **advice, proposals, recommendations, analyses or policy options developed by or for a government institution or a member of the Executive Council;**

If you wish to request a review of this response, you may do so within one year of this notice. To request a review, please complete a "Request for Review" form, which is available at the same location where you applied for access. Your request should be sent to Mr. Gerald Gerrand, Q.C., Acting Information and Privacy Commissioner, #700 - 1914 Hamilton Street, Regina, Saskatchewan, S4P 3N5.

If you have any questions concerning the FOI process, you may contact me at 787-3160. Questions pertaining to the information in the package should be directed towards Jeff Brown (787-4088) in Communications Branch."

[3] A Request for Review dated July 4, 2002 was filed by the Applicant with Mr. Frank MacBean, Q.C., the Acting Freedom of Information and Privacy Commissioner who forwarded a copy of same to the Respondent.

[4] The Respondent FOI Co-ordinator, Mr. Duane Mombourquette [REDACTED], by letter dated August 19, 2002, Mr. MacBean forwarded this file to me as [REDACTED] and felt that he could not complete this matter.

[5] On August 21, 2002 I advised the Respondent that I was now assigned to this matter and on August 28, 2002 I wrote to the Respondent as follows:

"Saskatchewan Health
Policy and Planning
3475 Albert Street
Regina, Saskatchewan
S4S 6X6

Attention: Mr. Duane Mombourquette
Director of Health Planning/FOI Co-ordinator

Dear Mr. Mombourquette:

RE: [REDACTED] and Saskatchewan Health
Freedom of Information Application No. [REDACTED]
File Reference: 2002/036 RPR

Further to my letter dated August 21, 2002 to [REDACTED], my review of this file indicates that a [REDACTED] [REDACTED] wrote to you on July 30, 2002 and forwarded a copy of this letter to Mr. MacBean and to the Applicant.

[REDACTED]'s letter makes reference to a "general" letter you wrote dated July 26, 2002 and also to a written decision provided by Mr. MacBean.

Would you please provide me with copies of these two documents.

Would you please also provide me with copies of the documents requested by the Applicant with an indication of what portions, if any, have been deleted in order that I might complete my review.

I would also be pleased to receive any further representations you might wish to make with respect to this matter.

Yours truly,

Richard P. Rendek, Q.C.
Acting Freedom of Information
and Privacy Commissioner
Province of Saskatchewan

[6] The Respondent replied by letter dated September 17, 2002, the relevant portion of which reads as follows:

"The second FOI application (HE-01/02/03G) made by [REDACTED] requested "a copy of the information provided or prepared by the Dept. showing recommendations on the appointments of members of the new Regional Health Authorities for each region". On June 28, 2002 Saskatchewan Health responded to [REDACTED] providing him with records provided or prepared by Saskatchewan Health showing recommendations on the appointments of board members of the new Regional Health Authorities and noting that some sections of these records had been severed pursuant to clause 17(1)(a) of the FOI Act. On July 4, 2002 [REDACTED] submitted a Request for Review on this matter to the Information and Privacy Commissioner and the Department subsequently received a letter from Mr. Frank A. MacBean on July 22, 2002 advising the Department of his intention to conduct a review. In response to your letter I enclose a copy of the records that Saskatchewan Health provided to [REDACTED] with the information that was severed pursuant to clause 17(1)(a) highlighted in yellow.

The severed information in these records contains advice, analysis and recommendations developed by Saskatchewan Health for the Minister of Health. The records were the means by which the Department made recommendations to the Minister for potential Regional Health Authority Board members. The process of preparing the final list of candidates to be appointed to the boards consisted of a number of exchanges of lists of names in these records between the Department and the Minister of Health.

Each of the lists of names provided to the Minister in these records was in fact advice and recommendations for consideration by the Minister. Names were added and removed throughout the process until such time as a final list of names was determined. Disclosure of names and analysis during this decision making process would result in a disclosure of recommendations, advice, and analysis provided by the Department to the Minister.

Section 17(1)(a) of the Act states:

17(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose [sic]:

(a) advice, proposals, recommendations, analyses or policy options developed by or for a government institution or a member of the Executive Council;

It is our opinion that the recommendations, advice and analyses contained in the severed portion of the records clearly fits the criteria provided for under section 17(1)(a). In this case the Department exercised its legislative authority to deny access to the information.”

[7] By letter dated September 19, 2002, the Applicant responded as follows:

“Thank-you for your letter of September 18th, 2002 dealing with my FOI at Saskatchewan Health. I have read the letter of Mr. Mombourquette. He has accurately outlined many of the different actions that relate to my request. However, I continue to maintain that his interpretation of the act and its application to my request are without merit. I have no further representations on that matter.”

[8] I have now had an opportunity to review the binder of documents forwarded to me by the Respondent. The portions that they have severed basically consist of three different sets of documents.

[9] The first set are maps outlining the boundaries of each Regional Health Authority with a black circle indicating the location of the Current Incumbent or a New Appointee.

[10] The second set are also maps outlining the boundaries of each Regional Health Authority but contains a circle to indicate the location of Recommended Board Members or a square to indicate the location of Alternative Board Members.

[11] The third and most detailed set of documents are completed forms entitled "2002 REGIONAL HEALTH AUTHORITY BOARD FINAL RECOMMENDATION SUMMARY".

[12] I have appended a copy of this form to this Report in order to more clearly explain its impact. It should be noted that although this document is entitled a "Final Recommendation Summary", and is completed separately for each Regional Health Authority, it has been updated several times until a final recommendation has been established for each region.

[13] The form basically speaks for itself and clearly contains specific initial and additional recommendations for appointees including their names, addresses, and in the final version of the Summary, their occupations.

[14] The "analysis" section of this form contains certain data regarding the board members but does not name them.

[15] The Board Balance Assessment contains the rationale for the proposed recommendations.

[16] In most instances, there is attached to this form a list of "Alternatives" that are recommended to be appointed.

[17] The Respondent's position is set out in their letter of September 17, 2002 and in essence they are relying on Section 17(1)(a) of *The Freedom of Information and Protection of Privacy Act* which states:

17(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

- (a) advice, proposals, recommendations, analyses or policy options developed by or for a government institution or a member of the Executive Council;

[18] In my view, the first set of documents do not fall within the purview of this Section. They also do not contain recommendations, analyses or policy options but merely contain certain information as to a particular Health Region's boundaries and the location of the current incumbent or a new appointee.

[19] Similarly, the second set of documents, in my view, do not contain recommendations, analysis or policy options. They merely indicate the location of Recommended Board Members or Alternative Members.


[20] The third set of documents create a more difficult problem. The first section, entitled "Initial Recommended Appointees" are clearly recommendations developed by the Department of Health for the Minister. The same can be said for the second section of this document which is entitled "Additional Recommended Appointees".

[21] The third section of this document is entitled "Analysis" which would appear to be caught by the wording of Section 17(1)(a). However a review of this section indicates that it is not an "analysis" at all. It is merely the categorization of the proposed board members by gender, age, education, etc. without in any way indicating who the proposed board members are. It is merely statistical data with no analysis of the data contained in the "analysis" section of the document.

[22] The final section of the appended form, entitled "Board Balance Assessment", is in fact an analysis of the data contained in the third section of the document. This analysis forms the basis of the recommendations to the Minister and accordingly comes within the ambit of Section 17(1)(a).

[23] In summary, I would recommend that the Respondent provide access to the Applicant to the first and second set of documents as well as the section entitled "Analysis" of the third set of documents. I would further recommend that the Respondent continue to deny access to the remaining sections of the third set of documents including the attachments entitled "Alternatives".

[24] Dated at Regina, in the Province of Saskatchewan, this 25th day of September 2002.


RICH [REDACTED] .C.
Acting Commissioner of Information
and Privacy for Saskatchewan

(Internal Document Only)

**2002 REGIONAL HEALTH AUTHORITY BOARD
FINAL RECOMMENDATION SUMMARY**

Regional Health Authority No. _____

Initial Recommended Appointees:

Length of Term

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

Additional Recommended Appointees:

- 7.
- 8.
- 9.
- 10.
- 11.
- 12.

Analysis:

(Insert the number of board members in each of the following categories)

Males	First Nations	New Board Members
Females	Métis	Previously Appointed Members
Retired		

Education	Age
Less than Grade 12	Age 18 - 39
High School Diploma	Age 40 - 64
Post Secondary Training	Age 65 and over

Board Balance Assessment:

(Please include information such as occupations, interest group representation, etc., strengths, weaknesses of the board composition.)