

**SASKATCHEWAN
INFORMATION AND PRIVACY COMMISSIONER**

REVIEW REPORT 078-2015

Ministry of Labour Relations and Workplace Safety

Summary: The Applicant requested a record that contained information about himself and another individual from the Ministry of Labour Relations and Workplace Safety. The Commissioner found that the information about the other individual qualified as personal health information pursuant to subsection 2(m) of *The Health Information Protection Act*. He recommended that the Ministry continue to withhold the record.

I BACKGROUND

[1] On December 29, 2014, the Applicant made an access request to the Ministry of Labour Relations and Workplace Safety for information related to his Saskatchewan Workers' Compensation Board claim from 1995. On January 23, 2015, the Ministry provided the Applicant with the record – a five page letter which discusses both the Applicant's claim and that of another individual. The Ministry severed much of the other person's information pursuant to subsection 29(1) of *The Freedom of Information and Protection of Privacy Act* (FOIP). However, the Ministry missed severing one instance where this individual's name appeared and thus disclosed it to the Applicant.

[2] After receiving the record, the Applicant called my office to inquire what to do. We advised the Applicant to call the Ministry and let them know what happened. The Ministry requested that the Applicant return the record. He did so. The Ministry returned a second, fully redacted, version to the Applicant. The Ministry proactively reported the breach to my office. We investigated and were satisfied with the actions the Ministry had taken in response to the breach.

[3] On April 10, 2015, my office received a request for review from the Applicant. He indicated that he is seeking access to all of the information about the other individual. On April 21, 2015, my office provided notification to both the Applicant and the Ministry of our intention to undertake a review.

II RECORDS AT ISSUE

[4] The record at issue is a five page letter. The other individual's name is severed three times on the first page. Two paragraphs on the third page which discuss the other individual's situation have also been severed.

[5] Finally, the letter was carbon copied to two employees of the government. This is indicated on the last page of the letter. One of those names has been severed. The Ministry indicated in its submission that this name was incorrectly severed.

III DISCUSSION OF THE ISSUES

[6] The Ministry qualifies as a government institution pursuant to subsection 2(1)(d)(i) of FOIP. It also qualifies as a trustee pursuant to subsection 2(t)(i) of *The Health Information Protection Act* (HIPA).

1. Do the severed portions of the record qualify as personal information or personal health information?

[7] In its section 7 response to the Applicant, the Ministry indicated that the severed portions would qualify as personal information of an identifiable individual and must be withheld pursuant to subsection 29(1) of FOIP. In its submission to my office, the Ministry also indicated that the severed portions would qualify as personal health information pursuant to subsection 2(m) of HIPA.

[8] Subection 2(m) of HIPA states:

2 In this Act:

...

(m) “**personal health information**” means, with respect to an individual, whether living or deceased:

- (i) information with respect to the physical or mental health of the individual;
- (ii) information with respect to any health service provided to the individual;
- (iii) information with respect to the donation by the individual of any body part or any bodily substance of the individual or information derived from the testing or examination of a body part or bodily substance of the individual;
- (iv) information that is collected:
 - (A) in the course of providing health services to the individual; or
 - (B) incidentally to the provision of health services to the individual; or
- (v) registration information;

[9] Upon review of the two severed paragraphs, I agree with the Ministry that they would qualify as personal health information because they fit the description offered by subsections 2(m)(i), (ii) and (iv) of HIPA. The name of this individual would also qualify as personal health information pursuant to subsection 2(m)(v) of HIPA.

2. **Should the Ministry disclose the personal health information to the Applicant?**

[10] Section 27 of HIPA states:

27(1) A trustee shall not disclose personal health information in the custody or control of the trustee except with the consent of the subject individual or in accordance with this section, section 28 or section 29.

[11] Neither the Ministry nor the Applicant has indicated that any of the exceptions found in sections 27, 28 or 29 of HIPA apply in these circumstances.

[12] Therefore, I agree that the Ministry should continue to withhold the personal health information in question pursuant to subsection 27(1) of HIPA.

IV FINDINGS

[13] I find that the information in question qualifies as personal health information pursuant to subsection 2(m) of HIPA.

V RECOMMENDATIONS

[14] I recommend that the Ministry continue to withhold the personal health information in question, but provide the Applicant with a new copy of the record that includes the name of the employee that was severed on the last page.

Dated at Regina, in the Province of Saskatchewan, this 26th day of May, 2015.

Ronald J. Kruzeniski, Q.C.
Saskatchewan Information and Privacy
Commissioner