



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER P-565

Appeals P-9300225, P-9300226 and P-9300227

Ministry of Health



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ORDER

BACKGROUND:

Three requests were made to the Ministry of Health (the Ministry) under the Freedom of Information and Protection of Privacy Act (the Act) for access to the names and addresses of attendees and invitees of the Ministry's Medical Information/Computer Forums held on December 7, 1992 in Burlington (Appeal P-9300225), January 20, 1993 in Kitchener (Appeal P-9300226) and January 27, 1993 in Niagara-on-the-Lake (Appeal P-9300227). The Ministry located three lists responsive to each request:

Record 1 - a list of health care providers (the providers) in each relevant region;

Record 2 - a sign-in sheet for attendees of the forum; and

Record 3 - a list of staff who attended the show.

The Ministry granted access to Record 3 in full for each of the requests, and granted partial access to Records 1 and 2 for each of the requests, with severances of some of the addresses pursuant to section 21 of the Act. The Ministry stated that this exemption was used to remove providers' home addresses.

The requester appealed the Ministry's decision to sever addresses and expressed the view that the addresses at issue are business addresses rather than home addresses and should be disclosed. The appellant noted in particular that in every case Record 2 was headed with the words "PROVIDER'S OFFICE NAME/ADDRESS". During mediation, the Ministry re-considered its decision and disclosed Record 2 to the appellant in each appeal, in its entirety.

Thus, only Record 1 remains at issue in each appeal.

The appellant also appealed the amount of fees charged to him for receiving the lists. In particular, he noted that he was charged repeatedly for receiving duplicate records where the same records were responsive to more than one of his requests. In response, the Ministry issued the appellant a cheque to reimburse him for the photocopy costs charged for providing identical records and for the total cost of severing all records in Appeal P-9300227, as most of these records were duplicates.

The Ministry did not, however, reimburse the appellant for the costs associated with severing Record 2, the record subsequently disclosed to the appellant in full. Thus, the fee charged for severing this record remains at issue in Appeals P-9300225 and P-9300226.

ISSUES:

- A. Whether the addresses contained in the record qualify as "personal information" as defined in section 2(1) of the Act.

[IPC Order P-565/October 29, 1993]

- B. If the answer to Issue A is yes, and the personal information relates solely to individuals other than the appellant, whether section 21 of the Act applies.
- C. Whether the amount of the fees charged were calculated in accordance with section 57(1) of the Act.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the addresses contained in the record qualify as "personal information" as defined in section 2(1) of the Act.

Section 2(1) of the Act reads, in part:

"personal information" means recorded information about an identifiable individual, including,

...

(d) the address, telephone number, fingerprints or blood type of the individual,

...

(h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

In its representations, the Ministry states that the addresses severed from the record are the residential addresses of the health care providers. It submits that this information, coupled with the names of the physicians already disclosed to the appellant, qualifies as the personal information of the physicians under the definition of personal information. It states the names were released so that the appellant can be provided with as much information as possible without disclosing the exempt information.

The appellant states that he believes the names and addresses that have been withheld from him pertain to business entities and not to identifiable individuals. He submits that the Ministry has no statutory authority to collect the residential addresses of the physicians, and therefore, the addresses in question should be the business rather than personal addresses of the physicians.

The Ministry states that the Ministry's Provider Services Branch maintains the provider registry database which contains a wide range of information regarding all physicians currently registered

with the Ministry. According to the Ministry, this database "may contain several addresses for each physician: a practice address, a mailing address; and a billing address."

The Ministry indicates that upon registration, physicians fill out a form which requires that they provide a practice/business address, as well as a mailing address where cheques/remittance will be sent. According to the Ministry, although the practice address is clearly labelled on the form, in many cases, this portion of the form is known to contain residential addresses. The Ministry explains:

The current Ministry requirements are that this field [the practice address field] must be completed for the computer system to generate a physician billing number. There are numerous instances where the practice address field of the registry form was left blank by the physician, and only the mailing address has been provided. In these cases, the alternative address information has been entered in the database by the Ministry in the practice address information data field.

It is also recognized that many physicians do not have a practice address upon registration. Some physicians may not have a practice set up yet. A number of physicians do not set up practice and act as locum tenens (i.e. substitute for another physician) instead. In these cases, a personal home address has [been] entered in this field and onto the database.

The Ministry indicates that "it is not always possible to discern true practice address information from personal residence information contained in the database" and states that the addresses were severed from the record on the basis of the considerations outlined above. The Ministry has provided me a sample registration form completed by a physician, which demonstrates its position.

Having reviewed the Ministry's representations, and based on the information available to me, I am satisfied that the information is recorded information about identifiable individuals which satisfies the definition of personal information under section 2(1) of the Act. I find this personal information relates solely to individuals other than the appellant.

ISSUE B: If the answer to Issue A is yes, and the personal information relates solely to individuals other than the appellant, whether section 21 of the Act applies.

In Issue A, I found that the addresses withheld from the appellant relate solely to individuals other than the appellant. Section 21(1) of the Act is a mandatory exemption which prohibits the disclosure of personal information to any person other than to the individual to whom the information relates, except in the circumstances listed in sections 21(1)(a) through (f) of the Act.

The Ministry's position is that there are no exceptions which could apply to the information at issue. It has also provided me with representations as to why it believes disclosure of the

information would constitute an unjustified invasion of the personal privacy of the individuals named in the record.

In my view, the only exception to the mandatory exemption contained in section 21(1) of the Act which has potential application in the circumstances of this appeal is section 21(1)(f). This section reads:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

Because section 21(1)(f) is an exception to the mandatory exemption which prohibits the disclosure of personal information, in order for me to find that this exception applies, I must find that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy.

The appellant's representations consist of arguments that only address the desirability of disclosing the business addresses of physicians. The representations I have been provided with by the Ministry raise considerations which weigh in favour of finding that the section 21(1)(f) exception does not apply.

Having carefully reviewed the contents of the record and the provisions of the Act, and in the absence of evidence that disclosure of the information would not constitute an unjustified invasion of personal privacy, I find that the mandatory exemption provided by section 21(1) of the Act applies to the information at issue.

ISSUE C: Whether the amount of the fees charged were calculated in accordance with section 57(1) of the Act.

The appellant is of the view that he should not be charged for the cost of severing Record 2, which was later disclosed to him in its entirety in all of the appeals. In Appeal P-9300227, the entire fee was refunded to the appellant. Thus only 26 pages fall into this category: 11 pages in Appeal P-9300225, and 15 pages in Appeal P-9300226.

The Ministry states that in Appeal P-9300225, the appellant was charged \$22.50 for severing both records 1 and 2. In Appeal P-9300226, the fee charged was \$30.00. The Ministry indicates that for Record 1 alone, there were 48 pages in Appeal P-9300225 and 71 pages in P-9300226 which required severing. The Ministry submits that based on severing time of 1 minute per page, the appellant was in fact undercharged in each of the appeals for Record 1 alone. It submits that "as such the severing time for Record 2 was never included."

Under section 57(1)(b) of the Act, where no provision is made for a charge or fee under any other Act, the requester is required to pay the costs of preparing the record for disclosure.

Section 4 of Regulation 516, under the Act, sets the amount of fees chargeable under section 57(1) for preparing a record for disclosure, including severing a part of the record, at \$7.50 for each fifteen minutes spent by any person.

The Ministry has charged for 45 minutes of severing time in Appeal P-9300225 and for 60 minutes of severing time in Appeal P-9300226. Looking at the number of pages in Record 1 alone, this amounts to less than one minute per severed page. I note that each page has numerous severances.

In previous orders, two minutes per page was found to be reasonable, even where only a few severances per page were made (Orders 184, P-260).

As a result, I am satisfied that the fees charged are reasonable and were calculated in accordance with section 57(1).

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Asfaw Seife
Inquiry Officer

_____ October 29, 1993