Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER P-1213

Appeal P-9500069
(Reconsideration)

Health Professions Board

80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

Website: http://www.ipc.on.ca
416-326-3333
1-800-387-0073
Fax/Téléc: 416-325-9195
TTY: 416-325-7539
http://www.ipc.on.ca

BACKGROUND:

This order sets out my decision on the reconsideration of Order P-1088 (issued December 22, 1995). To place this order in context, I will briefly set out the history of the matter.

The Appeal and Order P-1088

The appellant, a former psychiatric patient, submitted complaints to the Ontario College of Physicians and Surgeons (the College), against two physicians. Subsequently, these complaints were considered by the Health Disciplines Board (which is now called the Health Professions Board, and is referred to throughout this order as "the Board"). Under the Freedom of Information and Protection of Privacy Act (the Act), the appellant submitted a request for access to the contents of the Board's files pertaining to these two complaints.

The request was sent to the Freedom of Information and Privacy Office at the Ministry of Heath (the Ministry), although the Ministry was not actually mentioned in the request letter.

The response to the appellant's request was issued on the Ministry's letterhead and signed by the Ministry's Acting Freedom of Information and Privacy Co-ordinator. The decision letter indicates that a search was conducted in the Ministry's Health Boards Secretariat, and the two complaint files were located. Access was granted to a large number of records found in these files. In addition, some records were withheld, in whole or in part, based on the following exemptions in the Act:

- invasion of privacy - sections 21(1) and 49(b).

A number of records were also withheld under section 65(2)(b), which removes some information pertaining to patients in a psychiatric facility from the scope of the Act.

The Ministry's decision letter indicates that the Chair of the Health Professions Board was responsible for the decision to deny access to records which were fully or partially withheld.

The appellant filed an appeal of the denial of access under the exemptions and under section 65(2)(b).

A Notice of Inquiry was sent to the appellant and the Ministry. This Notice was also sent to two physicians and another individual, all of whom are mentioned in the records. Representations were received from the appellant and the Ministry only.

After reviewing the decision letter, the letter of appeal, the records and the representations, I issued Order P-1088. I found that section 65(2)(b) did not apply to the records for which it had been claimed, and ordered the Ministry to make an access decision under the Act. Contrary to statements contained in the representations of several of the parties who have requested a reconsideration, Order P-1088 did **not** order disclosure of these records.

With respect to the records for which section 65(2)(b) was **not** claimed, I considered whether the exemptions claimed for them in the decision letter were applicable. I upheld the Ministry's decision to withhold one record in its entirety, and parts of nine others. I ordered the Ministry to disclose three records in their entirety, and parts of one other record.

The records at issue are described in more detail in Appendix "A" to this order, which also lists the reason given in the initial decision letter for not disclosing each record which was withheld either in whole or in part.

The Reconsideration Requests

Subsequent to the issuance of Order P-1088, I received letters from counsel acting for each of the Board, the College and the College of Nurses, and also from the Ministry, all requesting a reconsideration of the order.

The Board argued that there was a fundamental defect in the adjudication process amounting to a denial of natural justice because it was not given notice of its right to make submissions regarding the appeal. The Board also argued that the order contained a jurisdictional error because the records should be seen to fall within the exclusions from the Act set out in sections 65(2)(a) and (b).

The College made a similar argument to the effect that it should have been notified of the appeal, and argued that the interpretation of section 65(2) in the order constituted an error of law.

The College of Nurses supported the requests for reconsideration of the Board and the College, and asked to be added to the reconsideration and appeal as an interested party.

The Ministry argued that the order contains serious and substantive errors of law in its interpretation of section 35(1) of the Mental Health Act and section 65(2) of the Act.

The IPC's Reconsideration Policy Statement describes the threshold for proceeding with a reconsideration, as follows:

> When an application for reconsideration of an order is received, the order should be reconsidered only where:
>
> 1. there is a fundamental defect in the adjudication process (for example, lack of procedural fairness) or some other jurisdictional defect in the order, or;
>
> 2. there is a typographical or other clerical error in the order which has a bearing on the decision or where the order does not express the manifest intention of the decision maker.
>
> An order should not be reconsidered simply on the basis that new evidence is provided, whether or not that evidence was obtainable at the time of the inquiry.

In the submissions supporting the reconsideration requests, as outlined above, the main substantive issue raised is the interpretation of section 65(2) of the Act. If it applies, section 65(2) has the effect of excluding records from the scope of the Act, which removes such records from the IPC's jurisdiction. Therefore, this "substantive" issue is also a threshold issue in this reconsideration.

For this reason, I sent a letter inviting representations on both threshold and substantive issues relating to the reconsideration requests. This letter was sent to the appellant, the Board, the Ministry, the College, the College of Nurses, the hospital where many of the records apparently originated (the hospital), and the two doctors. When the initial Notice of Inquiry was sent to the other individual mentioned in the records, it could not be delivered by Canada Post. Without a current address, it was not possible to contact this individual concerning this reconsideration.

In response to my letter, the appellant, the Board, the College, the College of Nurses, the Ministry and the hospital all submitted representations.

PRELIMINARY ISSUES:

SHOULD ORDER P-1088 BE RECONSIDERED?

As noted above, an order will be reconsidered if it contains a jurisdictional error. Since section 65(2) excludes records from the scope of the Act, and since my jurisdiction depends, in part, on the records at issue being subject to the Act, an incorrect finding in Order P-1088 to the effect that records are **not** excluded from the scope of the Act by section 65(2) would constitute a jurisdictional error.

This reconsideration is somewhat unusual because this major substantive issue -- the question of jurisdictional error and section 65(2) -- is also a threshold issue which must be resolved in deciding whether to proceed with the reconsideration.

For the sake of simplicity in explaining my decision on the question of whether to reconsider Order P-1088, I will indicate that, in the substantive discussion below, my conclusion is that section 65(2)(a) applies to all of the records for which section 65(2)(b) was claimed, and several additional records, and that these records are, therefore, all excluded from the scope of the Act. By contrast, in Order P-1088, I found that these records were subject to the Act. Therefore, as regards these records, Order P-1088 did contain a jurisdictional error. Accordingly, I have concluded that Order P-1088 must be reconsidered.

STATUS OF PARTIES

As will be apparent from the cover page of this order, I am of the view that the institution in this case is the Health Professions Board. The Board is listed as a separate institution in the schedule to Ontario Regulation 460 (made under the Act). While the schedule lists the head of the Board as the Minister of Health, both the Board and the Ministry agree that the decision-making aspect of this function has been delegated to the Chair of the Board. These parties also agree that the Chair of the Board was responsible for the decisions to sever and withhold records, as set out in the decision letter. Moreover, the records came from the Board's files, which are in the possession of the Ministry's Health Boards Secretariat.

In my view, with the exception of the appellant, all the other participants in this appeal should be described as intervenors rather than parties, affected parties or affected persons. Although these other parties clearly have an interest in these proceedings, I find that their interest is not sufficiently direct to entitle them to be parties. However, because of their experience in the

health care field, and in particular, their familiarity with clinical records, I have carefully considered their representations in reaching my decision in this reconsideration.

DISCUSSION:

PSYCHIATRIC PATIENT RECORDS

Section 65(2) of the Act states as follows:

> This Act does not apply to a record in respect of a patient in a psychiatric facility as defined by section 1 of the Mental Health Act, where the record,
>
> (a) is a clinical record as defined by subsection 35(1) of the Mental Health Act; or
>
> (b) contains information in respect of the history, assessment, diagnosis, observation, examination, care or treatment of the patient.

Section 35(1) of the Mental Health Act (the MHA), referred to in section 65(2)(a) of the Act, states as follows:

> "Clinical record" means the clinical record compiled in a psychiatric facility in respect of a patient, and includes part of a clinical record.

The Ministry's decision letter did not refer to section 65(2)(a) of the Act, and this section was therefore not considered in Order P-1088. The Board, the Ministry, the College, the College of Nurses and the hospital all referred to it in their reconsideration requests. Because section 65(2)(a) is a jurisdiction-limiting provision, I will consider it in the context of the reconsideration even though it was not raised until the reconsideration requests were submitted.

One of the requirements of the preamble of section 65(2) is that the records must pertain to a patient in a "psychiatric facility as defined by section 1 of the [MHA]". Section 1 of the MHA defines "psychiatric facility" as one designated as such by regulation under that statute. I am satisfied that the hospital in question is so designated. I am also satisfied that the appellant was an in-patient of the hospital between February 22, 1986 and April 17, 1986, and again between April 23, 1986 and June 19, 1986.

The appellant argues that, because of the reference to a patient "in" a psychiatric facility, section 65(2) cannot apply after discharge. I do not agree with this interpretation. In my view, there is nothing in the wording of this section to indicate that its provisions are intended to be time-limited in this way.

Records for which section 65(2) was initially claimed

In the circumstances of this case, it is clear that the records for which section 65(2)(b) was initially claimed originated with the hospital. Copies of these records were subsequently sent to

the College, and later transferred to the Board, in the context of the appellant's complaints against two physicians.

In Order P-389, Assistant Commissioner Tom Mitchinson accepted the Ministry's submissions to the effect that a copy of a clinical record loses its character as such, for the purposes of section 65(2)(a), once it leaves the psychiatric facility. The following is the relevant extract from Order P-389:

> The representations provided by [the Ministry] support the appellant's view, and state: ...
>
> > ... a distinction should be made between clinical records and copies of clinical records ... only the original clinical record compiled by a psychiatric facility is a clinical record within the meaning of the [MHA].
>
> There is no dispute that the records at issue in this appeal are in the custody and control of [the Ministry of Community and Social Services]. I accept the representations of [the Ministry] and the appellant, and find that the records are not "clinical records" as defined by the MHA and, therefore fall outside the scope of section 65(2)(a) of the Act.

The Board and the other intervenors now argue that this is an incorrect interpretation of section 65(2)(a). This argument is founded on the view which these parties take of the "plain meaning" of the section. In addition, several of these parties refer to the decision of the Ontario Court (General Division) in Everingham v. Ontario (1992), 7 O.R. (3d) 291 (leave to appeal to the Court of Appeal denied at (1992), 9 O.R. (3d) 478).

In Everingham, the applicants were residents of a mental health facility. The Court was considering whether information derived from the applicants' clinical records could be introduced into evidence, in affidavit form, by the respondents. Parts of this evidence derived from information which had originated in the clinical record but had subsequently been provided to the Lieutenant Governor's Board of Review. The Court found that the information taken directly from the clinical records, and the information from the clinical records obtained from the Board of Review materials, should all be struck from the affidavit. The Court stated:

> In my view, the requirements of section 35 [of the MHA] cannot be disregarded simply because copies of the clinical records have somehow come into the Board's possession.

In other words, the Court found that the fact that some clinical records had left the psychiatric institution, and were in the possession of some other body, did not alter their character as clinical records, and the prohibitions against disclosure in section 35 of the MHA would still apply. This would also be the case for information taken from clinical records which appears in another document.

In my view, the Everingham case is relevant to the interpretation of section 65(2)(a), since it refers to clinical records as defined in section 35(1) of the MHA. In my view, therefore, a record does not lose its status as a "clinical record" just because it has been copied and forwarded to another institution such as the Board.

I am satisfied that all of the records for which the Ministry claimed section 65(2)(b) are, in fact, copies of parts of the clinical record compiled by the hospital. This includes Records 18, 34, 41 and 43, which I excluded from the scope of section 65(2)(b) in Order P-1088 because of their contents. It also includes Records 19, 21, 22 and 27, which I excluded from the scope of section 65(2)(b) because they were not created during the periods when the appellant was an in-patient of the hospital. I will explain my conclusions about these particular records in more detail.

Record 18 is a consent by the appellant to disclosure of a clinical record. Records 34, 41 and 43 are authorizations re: personal effects. It might appear that, given their contents, these records are not properly part of a "clinical record".

On this point, the Health Professions Board submits that:

> ... parts of the clinical record cannot be severed for disclosure purposes. Subsection 35(1) of the [MHA] provides that the terms "clinical record" includes "part of a clinical record". ... There do not exist multiple "records" in this matter for the purposes of subsection 35(1) of the [MHA].

Similarly, the College submits:

> Nor is it correct, in my respectful submission, to take clinical records apart and treat each page or section as if it were a separate "record" for subsection 65(2) purposes. That provision speaks of a "record" and refers by inference to a "compiled" record. It is not proper to "uncompile" the record and then analyze the resulting ingredients to see whether each of them meets the criteria in subsection 65(2).

Based on the reference to "**the** clinical record **compiled** in a psychiatric facility" (emphases added) in the definition of "clinical record" in section 35(1) of the MHA, I agree with these submissions, up to a point. In my view, however, there must be some logical connection between a document and the patient in order for it to be part of that individual's clinical record within the meaning of section 65(2)(a) of the Act and section 35(1) of the MHA. For instance, it would not be reasonable to find that these provisions are intended to include misfiled documents which have no connection whatsoever to the patient. It is clear that Records 18, 34, 41 and 43 all relate to the appellant, and are part of the hospital's compiled record concerning him. In the circumstances, I am satisfied that Records 18, 34, 41 and 43 are copies of parts of the "clinical record" within the meaning of section 65(2)(a).

Records 19, 21, 22 and 27 consist of "progress notes" recorded by a physician, but they fall outside the periods when the appellant was an in-patient of the hospital. However, I note that section 35(1) of the MHA defines "patient" as follows:

> "Patient" includes former patient, out-patient, former out-patient and anyone who is or has been detained in a psychiatric facility.

In my view, this definition is relevant to a consideration of section 65(2) of the Act because that section refers to the definition of "clinical record" in section 35(1) of the MHA, which itself includes the word "patient". Therefore, in my view, I am obliged to consider the definition of "patient" in section 35(1) of the MHA in determining the meaning of "clinical record".

I conclude that, when Records 19, 21, 22 and 27 were created, the appellant was a "former patient", and therefore he meets the definition of "patient" in section 35(1) of the MHA. Because I am also satisfied that, in all other respects, these records formed part of the hospital's clinical record regarding the appellant, I conclude that they are copies of part of the "clinical record" within the meaning of section 65(2)(a).

Therefore, because of the Everingham decision and my conclusion that all of the records for which the Ministry originally claimed section 65(2)(b) are, in fact, copies of parts of the hospital's "clinical record", they are all excluded from the scope of the Act under section 65(2)(a).

Other Records

As previously noted, the decision letter issued in response to the appellant's request, which set out the Board's decision to withhold some records in their entirety, and parts of others, did not claim that section 65(2) applied to all of the records at issue. The decision letter treated the remaining records as being subject to the Act, and the exemptions in sections 21(1) and, in some cases, 49(b), were claimed (see Appendix "A").

The records which were treated as being subject to the Act consist of Records 1 though 5, inclusive, Records 10 through 17, inclusive, and Record 45.

These records consist of correspondence between the Board and the physicians against whom the appellant filed complaints, record of complaint forms regarding these two physicians, correspondence between one of the physicians and the College, and a letter to the College pertaining to one of the complaints. There is no suggestion that these records were themselves ever part of the hospital's clinical record concerning the appellant.

I have not been provided with any specific argument to the effect that any of these records should be excluded from the scope of the Act by either section 65(2)(a) or (b) of the Act. However, because this issue has jurisdictional implications, I will consider it.

I have reviewed the records in question. Records 1, 2, 3, 4, 10, 11, 12, 13 and 14 consist of administrative documents relating to the investigations of the appellant's complaints by the College and the Board. None of the information in these records derives from the appellant's clinical record at the hospital, and section 65(2)(a) does not apply to them. Nor do they contain any information which could possibly attract the application of section 65(2)(b) no matter what standard is applied in that regard. I find that these records are subject to the Act.

Record 15 is a letter from one of the physicians to the College in connection with one of the complaints. Record 17 consists of a letter to the College from an individual who was not involved in the appellant's care and/or treatment. In my view, neither of these records contains any information derived from the clinical record, and section 65(2)(a) does not apply to them. Nor do they contain any information to which section 65(2)(b) could reasonably be found to apply. I find that these records are subject to the Act.

Records 5, 16 and 45 all contain a significant amount of information which derives from the clinical record. Based on the principles enunciated in Everingham, as outlined above, I find that these three records fall outside the scope of the Act by virtue of section 65(2)(a).

Summary

To summarize, I have found that Records 5 through 9, inclusive, Record 16, and Records 18 through 45, inclusive, fall outside the scope of the Act because they are records to which section 65(2)(a) applies. I have also found that the Act **does** apply to Records 1 through 4, inclusive, Records 10 through 15, inclusive, and Record 17.

Because I do not have jurisdiction to consider records which fall outside the scope of the Act, I will not deal further with the records which are subject to section 65(2)(a).

I do have jurisdiction to consider the records which are subject to the Act. I will, therefore, consider the exemptions claimed for these records.

INVASION OF PRIVACY

The representations provided in connection with this reconsideration do not provide any new information or argument concerning the application of the "invasion of privacy" exemptions in sections 21(1) and 49(b) of the Act. With regard to the records which I have found to be subject to the Act, my conclusions about the application of these exemptions are the same as those reached in Order P-1088. However, since I have decided to reconsider Order P-1088, I will set out these reasons, as they apply to the records properly before me. Therefore, this order entirely supersedes Order P-1088.

The access decision in this matter (which is set out in a decision letter issued to the appellant on Ministry letterhead) reflects the decisions of the Chair of the Board, who has delegated decision-making authority from the Minister as "head" of the Board. This decision letter claims that the withheld parts of Records 1, 2, 3, 4, 10, 11, 12, 13 and 14, and Records 15 and 17 in their entirety, are exempt under section 21(1) or 49(b).

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including 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.

I have reviewed the records to determine whether they contain personal information, and if so, to whom the personal information relates.

Records 1, 2, 3, 4, 10, 11, 12, 13 and 15 all pertain to the appellant's complaint against one of the physicians (whom I will refer to as "Physician A"). Some of these records consist of correspondence between the Health Disciplines Board and Physician A, and others are completed Record of Complaint forms pertaining to Physician A. These documents all identify the appellant as the complainant and Physician A as the subject of the complaint, and on this basis, I find that all of them contain the personal information of these individuals.

Record 14 is the Record of Complaint pertaining to the appellant's complaint against the other physician (whom I will refer to as "Physician B"). Again, this document identifies the appellant as the complainant and Physician B as the subject of the complaint, and on this basis, I find that it contains the personal information of these individuals.

Record 17 is a letter from an individual other than the appellant to the College of Physicians and Surgeons, pertaining to the appellant's complaint against Physician A. This letter identifies the appellant as the complainant and Physician A as the subject of the complaint, and on this basis, I find that it contains personal information pertaining to both of these individuals. It recounts the author's own experiences with Physician A, and on this basis, I find that it also contains the author's personal information.

In this appeal, the Ministry has raised the possible application of two "invasion of privacy" exemptions, namely, sections 21(1) and 49(b).

The section 21(1) exemption can only apply to records which do **not** contain the requester's personal information. As I have found that all the records for which this section has been claimed do contain the requester's personal information, section 21(1) is not applicable (Order M-352).

However, under section 49(b) of the Act, where a record contains the personal information of both the requester and other individuals and the institution determines that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the institution has the discretion to deny the requester access to that information. As noted, the records do contain the personal information of the requester and other individuals, and accordingly, I will consider whether section 49(b) applies.

In this situation, sections 21(2), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. Where one of the presumptions found in section 21(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is where the personal information falls under section 21(4) or where a finding is made that section 23 of the Act applies to the personal information.

If none of the presumptions contained in section 21(3) apply, the institution must consider the application of the factors listed in section 21(2) of the Act, as well as all other considerations that are relevant in the circumstances of the case.

The Ministry claims that the factors favouring non-disclosure in sections 21(2)(f) (highly sensitive information) and 21(2)(h) (information supplied in confidence) apply to the birth date, licence number and residential address of the physicians. The severances in Records 1, 2, 3, 4,

10, 11, 12, 13 and 14 all contain information falling into one or more of these categories. In the absence of any representations from the physicians, I find that there is insufficient evidence for me to conclude that sections 21(2)(f) and (h) are relevant considerations with respect to this information. However, in my view, the nature of this information, and its lack of connection to the substance of the complaints, is a relevant circumstance favouring non-disclosure. I find that its disclosure would be an unjustified invasion of personal privacy and I uphold the Ministry's severances in these records.

Record 15 consists of a letter from Physician A to the College of Physicians and Surgeons relating to the complaint against him. It contains the personal information of the appellant and Physician A only. It sets out Physician A's responses to various matters raised during the complaint investigation process. The Ministry submits that the factors favouring non-disclosure in sections 21(2)(f) (highly sensitive information) and 21(2)(h) (information supplied in confidence) apply. The circumstances support a view that this record was submitted in confidence, and the existence of a complaint regarding a physician is highly sensitive. I find that these two factors are relevant considerations with respect to this record.

In Order P-1042, I considered the necessity for an adequate degree of disclosure to one of the parties in a Workplace Discrimination and Harassment investigation to be a "relevant circumstance" to be considered under section 21(2). In this regard, I stated:

> This factor, which favours disclosure, has not been referred to in previous orders. It relates to the fairness of administrative processes, and the need for a degree of disclosure to the parties which is consistent with the principles of natural justice.

In my view, this factor applies to Record 15. In the circumstances, particularly in view of the fact that Physician A did not submit representations opposing disclosure, I find that this factor outweighs the factors favouring privacy protection. Therefore, disclosure of Record 15 would not constitute an unjustified invasion of personal privacy and I find that it is not exempt under section 49(b).

The Ministry argues that the presumed unjustified invasion of privacy in section 21(3)(a) (medical history, etc.) applies to Record 17. This record outlines the medical history and treatment of an individual other than the appellant. On this basis, I agree that this presumption applies. The appellant has raised several subsections of section 21(2) and submits that they support disclosure. However, even if I were to apply them, they cannot rebut a presumption under section 21(3) (Order M-170). Sections 21(4) and 23 do not apply to this record, and I find that it is exempt under section 49(b).

OTHER ISSUES RAISED BY THE APPELLANT

In his representations submitted prior to the issuance of Order P-1088, the appellant indicated his dissatisfaction with the amount of information disclosed to him by the College in connection with its investigation of his complaints. He also asked whether there were any notes or transcripts of the Board's proceedings to which he might have access. These issues were not explicitly addressed in Order P-1088, a fact mentioned by the appellant in his representations submitted in connection with this reconsideration.

The College is not an institution under the Act, and I have no jurisdiction to make rulings concerning its disclosure policies. For this reason, I did not address the appellant's submission on this point in my earlier order, and it would not be appropriate for me to deal with it now.

With respect to notes and transcripts of the Board's proceedings, this issue was not raised as a ground of appeal in the notice of appeal which the appellant sent to initiate these proceedings. As a consequence, the parties were not invited to make submissions on it in the initial Notice of Inquiry. Generally speaking, the representation stage is too late to add new issues to an appeal, and for this reason, I did not consider this issue as being properly before me in this appeal, and therefore it was not addressed in Order P-1088.

Moreover, in my view, if the appellant wanted access to notes and transcripts, he should have submitted a request for them. They are not mentioned in the request which forms the basis for this appeal. Therefore, if the appellant is still interested in this material, I suggest that he submit a new request for it.

The appellant has also indicated his objection to the Board, the College and the College of Nurses gaining knowledge of this case in some allegedly improper way. I would point out to the appellant that the orders issued by this office are public documents. In my view, there was nothing improper in the fact that the Board, the College and the College of Nurses became aware of Order P-1088 and asked that it be reconsidered.

In his representations respecting section 65(2), the appellant has included a reference to the rules governing disclosure of personal information in section 42 of the Act. These rules relate to unilateral disclosures by institutions and are irrelevant to an access appeal arising from a request (Order P-1014).

The appellant's representations also contain comments on the adequacy of the investigative processes and the conclusions of the College and the Board, as well as concerns about the Ontario Health Insurance Plan and the Ontario Legal Aid plan. These submissions have no bearing on the issues before me.

ORDER:

1. Records 5 through 9, inclusive, Record 16, and Records 18 through 45, inclusive, fall outside the scope of the Act because they are records to which section 65(2)(a) applies.

2. I uphold the Board's decision to deny access to Record 17 in its entirety, and to the information it severed from Records 1, 2, 3, 4, 10, 11, 12, 13 and 14.

3. I order the Ministry to disclose Record 15 to the appellant in its entirety by sending a copy to the appellant on or before **July 25, 1996**, but not earlier than **July 19, 1996**.

4. To verify compliance with Provision 3, I reserve the right to require the Ministry to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 3.

Original signed by: June 20, 1996
John Higgins
Inquiry Officer

APPENDIX A

INDEX OF RECORDS AT ISSUE

RECORD NUMBER	MINISTRY PAGE NUMBER(S)	DESCRIPTION	SECTION(S) ORIGINALLY CLAIMED
1	3	Letter to Physician A from Health Disciplines Board dated December 16, 1988	21(1) (record withheld in part)
2	6	Letter to Physician A from Health Disciplines Board dated April 20, 1988	21(1) (record withheld in part)
3	11	Letter to Physician A from Health Disciplines Board dated October 3, 1988	21(1) (record withheld in part)
4	C	Record of Complaint re Physician A dated January 4, 1988	21(1) (record withheld in part)
5	64-66	Letter from Physician B to College of Physicians and Surgeons dated October 26, 1987	21(1), 49(b) (whole record withheld)
6	46-49	History and Physical Examination form re appellant, dated February 26, 1986	65(2)(b) (whole record withheld)
7	50-52	Summary of Hospitalization re appellant, dated May 31, 1986	65(2)(b) (whole record withheld)
8	53-54	History and Physical Examination form re appellant, dated April 23, 1986	65(2)(b) (whole record withheld)
9	55-56	Summary of Hospitalization re appellant, dated June 22, 1986	65(2)(b) (whole record withheld)
10	D	Letter to Physician A from Health Disciplines Board dated April 23, 1991	21(1) (record withheld in part)
11	J	Letter to Physician A from Health Disciplines Board dated December 11, 1990	21(1) (record withheld in part)
12	Q	Letter to Physician A from Health Disciplines Board dated April 5, 1990	21(1) (record withheld in part)
13	C	Record of Complaint re Physician A dated November 13, 1989	21(1) (record withheld in part)
14	D	Record of Complaint re Physician B dated November 13, 1989	21(1) (record withheld in part)
15	28-29	Letter from Physician A to College of Physicians and Surgeons, April 22, 1989	21(1) (whole record withheld)
16	195-196	Letter from Physician A to College of Physicians and Surgeons dated October 15, 1989	21(1), 49(b) (whole record withheld)

RECORD NUMBER	MINISTRY PAGE NUMBER(S)	DESCRIPTION	SECTION(S) ORIGINALLY CLAIMED
17	82-85	Letter to College of Physicians and Surgeons re Physician A dated May 18, 1989	21(1) (whole record withheld)
18	23	Appellant's consent to disclosure of a clinical record dated February 22, 1989	65(2)(b) (whole record withheld)
19	34	Progress Note re appellant by Physician B	65(2)(b) (whole record withheld)
20	35	Department of Social Work referral of appellant to Physician B dated August 3, 1987	65(2)(b) (whole record withheld)
21	36-38	Progress Notes and handwritten notes re appellant by Physician B	65(2)(b) (whole record withheld)
22	40-44	Progress Notes re appellant by Physician B	65(2)(b) (whole record withheld)
23	45-46	History and Physical Examination form re appellant, dated April 22, 1986	65(2)(b) (whole record withheld)
24	47-49	Summary of Hospitalization re appellant, dated May 31, 1986	65(2)(b) (whole record withheld)
25	50-51	Summary of Hospitalization re appellant, dated June 22, 1986	65(2)(b) (whole record withheld)
26	52-53	Psychological Assessment re appellant, dated March 18, 1986	65(2)(b) (whole record withheld)
27	54-55	Progress Notes re appellant by Physician B	65(2)(b) (whole record withheld)
28	87	Hospital Registration Form re appellant, dated February 22, 1986	65(2)(b) (whole record withheld)
29	88-93	History and Physical Examination re appellant, dated February 1986	65(2)(b) (whole record withheld)
30	94-105	Progress Notes re appellant	65(2)(b) (whole record withheld)
31	106-108	Summary of Hospitalization re appellant, dated May 31, 1986	65(2)(b) (whole record withheld)
32	109-111	Progress Notes re appellant	65(2)(b) (whole record withheld)
33	112-120	Test results re appellant	65(2)(b) (whole record withheld)
34	121-123	Authorizations re personal effects	65(2)(b) (whole record withheld)
35	124	Hospital Registration form re appellant, dated April 23, 1986	65(2)(b) (whole record withheld)
36	125	Emergency Treatment Record, date illegible	65(2)(b) (whole record withheld)
37	126-128	History and Physical Examination form re appellant, dated April 23, 1986	65(2)(b) (whole record withheld)

RECORD NUMBER	MINISTRY PAGE NUMBER(S)	DESCRIPTION	SECTION(S) ORIGINALLY CLAIMED
38	129-135	Progress Notes, re appellant	65(2)(b) (whole record withheld)
39	136-137	Summary of Hospitalization, dated June 22, 1986	65(2)(b) (whole record withheld)
40	138-139	Report of consultation re appellant, April 23, 1986	65(2)(b) (whole record withheld)
41	140-142	Authorizations re personal effects	65(2)(b) (whole record withheld)
42	143	Test Results re appellant	65(2)(b) (whole record withheld)
43	144	Authorization re personal effects	65(2)(b) (whole record withheld)
44	145-151	Test results re appellant	65(2)(b) (whole record withheld)
45	197-200	Letter from Physician A to College of Physicians and Surgeons dated November 28, 1987	21(1), 49(b) (whole record withheld)