



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

ORDER PO-1680

Appeal PA-990140-1

Ministry of Health



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NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The requester asked the Ministry of Health (the Ministry) for access to

- all information regarding the proposed regulation and accompanying standards of practice submitted by the Royal College of Dental Surgeons of Ontario (RCDSO) dealing with orders to dental hygienists from May, 1998 to the present, including
- all correspondence and records of communications between the Ministry and the RCDSO, and internal memoranda or e-mails from May 1998 to the present, and
- a copy of any “comfort” letter sent by RCDSO to the Minister on how this proposed regulation would be applied by the RCDSO

The request is dated February 9, 1999.

On February 17, 1999, the Ministry sent the requester a letter acknowledging receipt of the request and indicated that the Ministry had opened a file for the request on that date. The Ministry stated that they anticipated providing the requester with a decision by March 19, 1999. When no response was received, the requester wrote to the Ministry again on March 31, 1999 to point out that the request was urgent.

The Ministry did not issue a decision letter to the requester as required by sections 26 and 29 of the Act within the 30 days prescribed by the Act, nor did the Ministry request a time extension to process the request under section 27(1) of the Act. Accordingly, the Ministry placed itself in a “deemed refusal” situation pursuant to section 29(4) of the Act. On April 12, 1999, the requester (now the appellant) appealed the Ministry’s deemed refusal to provide access to the records.

On May 5, 1999, the Ministry and the appellant were each sent a Notice of Inquiry. The Notice stated that the Ministry was in a “deemed refusal” situation because a decision letter had not been issued to the appellant within the time period set out in section 26 of the Act. The Notice also indicated that I would attempt to settle the appeal but if a settlement was not reached by May 19, 1999 I would be in the position to issue an order requiring the Ministry to issue a decision letter to the appellant.

I contacted the Ministry on several occasions to ascertain when they would be issuing a decision letter to the appellant. On all occasions I was advised that the Ministry was in the process of issuing a decision and I was assured that it would be issued before May 19, 1999. On that date a decision still had not been issued and I contacted the Ministry. I was again assured that a decision would be issued. To date, the Ministry has not issued a decision letter to the appellant and they are unable to commit to a date on which the decision will be issued

Given the above, I am ordering the Ministry to issue a decision letter to the appellant with respect to his request for records.

ORDER:

1. I order the Ministry to provide the appellant with a decision on access to the records responsive to the request of February 9, 1999 by **June 9, 1999**.
2. In order to verify compliance with Provision 1 of this order, I order the Ministry to provide me with a copy of the decision letter referred to in Provision 1 by **June 14, 1999**. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original signed by: _____ May 31, 1999
Susan Ostapiec
Acting Adjudicator