

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

PHIPA DECISION 238

Complaint HA20-00204

Credit Valley Family Health Team

February 28, 2024

Summary: A patient made an access request under *PHIPA* for notes taken during a meeting he had with a Director of a facility. The custodian denied access to the notes claiming that the legal privilege exemptions in section 52(1)(a) and (c) (legal privilege) apply. The adjudicator finds that the notes are dedicated primarily to the complainant's personal health information and that the legal privilege exemptions do not apply. The adjudicator orders the custodian to grant the complainant access to the whole record.

Statutes Considered: *Personal Health Information Protection Act, 2004*, ss. 2 (definitions), 4, and 52; *Regulated Health Professions Act, 1991*, SO 1991, c 18, section 36(3).

Decisions Considered: PHIPA Decision 17, PHIPA Decision 33 and PHIPA Decision 101.

BACKGROUND:

[1] This decision resolves a complaint regarding a health information custodian's decision to withhold a record created after its Director met with a patient.

[2] The complainant says he has been a patient at Credit Valley Family Health Team (the custodian or CVFHT) where he saw the same doctor on a regular basis for many years. The complainant says that in March 2018 he was seen by a resident doctor (resident). The complainant says at the end of this appointment he was given a copy of a Medical Condition Report (MCR). The MCR indicates that the complainant has a "vision acuity impairment." The complainant says that the MCR was sent to the Ministry of

Transportation (the MTO) and as a result he lost his licence which caused him to experience other difficulties, including the loss of his source of income.

[3] The complainant says that he contacted MTO and his regular doctor to report that a mistake had occurred but was directed to speak to the Director of the facility. The complainant requested a meeting with the Director and a meeting was scheduled, which he attended.

[4] The complainant subsequently sent two emails to the Director seeking access to any notes she made in relation to their meeting.¹ The Director, on behalf of the Credit Valley Family Health Team (the custodian) responded by email to the complainant stating:

I am responding to your request for the notes from our meeting on January 18, 2019.

This was not a medical consultation and as such no medical notes/records were created as a result of this meeting. I did not create, nor do I have any medical notes for you.

This was an administrative meeting; held for the purpose of allowing you to share your concerns regarding the MTO report regarding your vision.

[5] The custodian's email did not specify which legislation applied to its decision to deny the complainant access to the requested notes.

[6] The complainant filed a complaint under the *Personal Health Information Protection Act (PHIPA)* to the Information and Privacy Commissioner (IPC) about the custodian's access decision.² This file was opened to address the issue of whether the complainant has a right of access to the meeting notes. A mediator was appointed to explore settlement with the parties. However, mediation did not resolve the complaint and it was transferred to the adjudication stage where an adjudicator may decide to conduct a review.

[7] I commenced my review by inviting the written representations of the parties. In my invitation for representations, I shared my preliminary assessment with the parties that the custodian is a "health information custodian" (custodian) within the meaning of section 3(1)³ and that the complainant's request falls under *PHIPA*.

[8] I also shared my preliminary assessment that the custodian was not an "institution" within the meaning of section 2(1) of the *Freedom of Information and Protection of Privacy Act (FIPPA)* and thus the complainant could not make a request to access the

¹ The emails were dated November 24, 2020 and December 14, 2020.

² The complainant also filed a privacy complaint under *PHIPA* to address his concerns relating to video surveillance. The complainant subsequently withdrew the privacy complaint.

³ The term "health information custodian" is a term defined in section 3(1) of *PHIPA*.

meeting notes under *FIPPA*.

[9] In its representations, the custodian agrees with both of my preliminary findings. However, the complainant says in his representations that *FIPPA* also applies in the circumstances and that he takes the position that he also has a right of access to the notes through *FIPPA*.⁴

[10] Also in his representations, the complainant raises concerns relating to Ontario Health Insurance Plan (OHIP) billing practices and questions the conduct and authority of the resident who examined him. The complainant also questions the conduct of the doctor who supervised the resident. This decision will not address the complainant's concerns in this regard as they fall outside the jurisdiction of this office. In addition, I note that some of the evidence the complainant provided to the IPC to advance these concerns is contained in a document prepared for proceedings under the *Regulated Health Professions Act (RHPA)*.⁵ Previous decisions of the IPC have found that section 36(3) of the *RHPA* provides for a privilege over all documents prepared for proceedings under that act. Documents relied upon during proceedings before the Health Professions Appeal and Review Board (HPARB), which take place under the *RHPA*, are intended to be confidential and are not meant to be relied upon in any other civil proceeding, including a complaint before this office.⁶ Applying that reasoning here, I cannot consider any such evidence provided by the complainant in deciding whether he should be granted access to the meeting notes.

[11] Based on the remaining information before me, I find that the notes are records dedicated to the complainant's personal health information and that the exemptions claimed by the custodian do not apply. As a result, the custodian is ordered to grant the complainant access to the whole record.

RECORD:

[12] The record at issue is a 2-page type-written document, dated January 18, 2019. The custodian says that the record are the notes its Director made during her meeting with the complainant. The custodian refers to the record as the "notes" and says that it sent copies to its lawyers to obtain legal advice. For the remainder of this decision, I will refer to the record as the notes.

[13] The only record before me are the notes. Documentation, such as emails or other correspondence, that may have accompanied the notes when the custodian sent the

⁴ Given my finding setting aside the custodian's access decision made under *PHIPA*, I need not revisit my preliminary decision that the custodian is not an "institution" under *FIPPA*. However, in arriving at that preliminary decision I note that the custodian is not listed in Column 1 of the Schedule designating bodies as "institutions" found in Regulation 460.

⁵ The complainant attached a copy of a letter that was exchanged during a *RHPA* proceeding involving the parties to his complaint form.

notes to its lawyers are not before me. In addition, there are no notations, highlighting, questions or other markings in the copy of the notes before me which would demonstrate that specific information was being highlighted for the custodian's lawyers.

ISSUES:

- A. Do the notes contain "personal health information" as defined in section 4 of *PHIPA*? If so, are the notes "dedicated primarily to personal health information about the individual requesting access," within the meaning of section 52(3)?
- B. Do the exemptions at sections 52(1)(a) or (c) of *PHIPA* apply to the notes?

DISCUSSION:

A. Do the notes contain "personal health information" as defined in section 4 of *PHIPA*? If so, are the notes "dedicated primarily to personal health information about the individual requesting access," within the meaning of section 52(3)?

[14] In order to determine whether the complainant has a right of access to the record under *PHIPA*, it is first necessary to determine whether the information about the complainant in the record constitutes his "personal health information" within the meaning of *PHIPA*. If the record contains the complainant's personal health information, he has a right of access to it under section 52 of *PHIPA*.

[15] The complainant asserts that the notes contain his personal health information. The custodian takes the position that the notes do not contain the complainant's personal health information. In support of its position, the custodian cites PHIPA Decision 101 and states:

While the Notes contain "identifying information" in that it sets out the complainant's first and last name, it does not relate to the complainant's treatment or health status. The Notes do not contain any medical record numbers, substitute decision-makers, information about a medical treatment or dates during which the individual was scheduled to visit [the facility]. Instead, the Notes are kept in a separate file from the complainant's medical record and medical number for administrative purposes. This is because the Notes relate to the individual as a complainant and not as a patient of [the facility].

Decision and analysis

[16] The custodian says that the facts in this complaint are similar to those considered in PHIPA Decision 101. In that decision, a hospital took the position that an email did not

contain the personal health information of the requester despite it containing the requester's medical record number and a notation about his attendance at the hospital. The hospital in PHIPA Decision 101 said that the requester's information was "included for identification and contextual purposes only."⁶ As noted above, the custodian here says that the notes do not contain medical record numbers or other information relating to the complainant's medical history.

[17] The adjudicator in PHIPA Decision 101 rejected the argument that the personal health information in the email was included for only context and adopted the broad interpretation of the phrase "personal health information" as discussed in PHIPA Decision 17. The adjudicator in PHIPA Decision 101 stated:

[t]he presence of any personal health information in the records makes it a record of personal health information. With this method, the unit of analysis is the whole record, rather than individual paragraphs, sentences or words contained in the record. Additionally, the phrase "relates to", found in sections 4(1)(a) and (b) of *PHIPA*, is to be read in its grammatical and ordinary sense, including information that is connected in some way to the health of the individual to whom the information relates, or to the provision of health care to them.⁷ This interpretation best gives effect to one of the purposes of *PHIPA*, which is to provide individuals with a right of access to personal health information about themselves, subject to limited and specific exceptions.

[18] I agree with the IPC's broad interpretation of the phrase "personal health information" and find that the presence of any personal health information in the notes makes it a record of personal health information regardless where the custodian says it stored the notes. I have considered the representations of the parties, along with the record itself and find that the notes mostly contain information the complainant told the Director about his experience as a patient, including his disagreement with the diagnosis he received and the questions that remain unanswered from his point of view. I find that the record contains the personal health information of the complainant, as that term is defined in paragraphs (a) and (b) of the definition in section 4(1).⁸ In addition, I find that the record contains other identifying information about the complainant under section 4(3).⁹

⁶ PHIPA Decision 101, para 23.

⁷ Footnote no. 5 in para 27 of PHIPA Decision 101 in which the adjudicator cites PHIPA Decision 17.

⁸ Section 4(1) of *PHIPA* states, in part:

"personal health information", subject to subsections (3) and (4), means identifying information about an individual in oral or recorded form, if the information,

- (a) relates to the physical or mental health of the individual, including information that consists of the health history of the individual's family,
- (b) relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual,

⁹ Section 4(3) of *PHIPA* states:

Is the record dedicated primarily to personal health information?

[19] The extent of the complainant's right of access under *PHIPA* also depends on whether a record of his personal health information is "dedicated primarily" to that information.

[20] This is because, subject to any applicable exceptions, the right of access in *PHIPA* applies either to the whole record, or only to certain portions of it. In particular, while section 52(1) of *PHIPA* confers a right of access to the entire record, section 52(3) limits access where the record is not dedicated primarily to the individual's personal health information. Section 52(3) of *PHIPA* states:

Despite subsection (1) [setting out exemptions from the right of access in *PHIPA*], if a record is not a record dedicated primarily to personal health information about the individual requesting access, the individual has a right of access only to the portion of personal health information about the individual in the record that can reasonably be severed from the record for the purpose of providing access.

[21] *PHIPA* Decision 17 sets out this office's approach to the interpretation of section 52(3) (see paragraphs 85-115). In order to determine whether a record is "dedicated primarily" to the personal health information of the individual requesting access within the meaning of section 52(3), the IPC takes into consideration various factors, including:

- the quantity of personal health information of the requester in the record;
- whether there is personal health information of individuals other than the requester in the record;
- the purpose of the personal health information in the record;
- the reason for creation of the record;
- whether the personal health information of the requester is central to the purpose for which the record exists; and
- whether the record would exist "but for" the personal health information of the requester in it.

This list is not exhaustive.

Personal health information includes identifying information that is not personal health information described in subsection (1) but that is contained in a record that contains personal health information described in that subsection.

Decision and analysis

[22] The custodian again relies on PHIPA Decision 101 and says that the purposes of the notes “was to create a record of the administrative meeting during which the complainant informed [the Director] that he made a complaint with the [College of Physicians and Surgeons of Ontario (CPSO)] and intended to pursue legal action.” The custodian says that at the start of the meeting the complainant was informed that the Director was meeting with him in her role as the Postgraduate Site Director at the Teaching Unit. The custodian says that the notes were not created in the course of a medical examination and were located in a file separate from the complainant’s medical record. The custodian states that:

... any reference to personal health information noted by the IPC would only be included for context and is not central to the topic under discussion. The meeting was scheduled following the complainant’s email dated January 11, 2019, to discuss complaints against CVFHT’s physicians. At no point during the email correspondence did the complainant request an appointment with [the Director] to discuss his health. In any event, a medical appointment would be booked through the front desk and not through email correspondences. The complainant further suggested that the requested meeting could occur over email or the phone, a method that was not used to provide routine medical care at the time.

[23] The complainant says that he requested a meeting with the Director “to ask her to correct [the MCR] prior to any escalation under applicable legislation.” The complainant also says that his regular doctor told him to speak with the Director. In his representations, the complainant says that the purpose of the meeting:

was to inform [the Director] that a resident trainee under her supervision has made [an error]. And to give [the Director] the opportunity to take action. Actions such as putting the patient first and telling the MTO the truth, that no examination was ever performed. And take action to educate [resident trainees] as to proper, legal protocol to be followed.

[24] The custodian replied that the personal health information in the notes “is minimal at best.” The custodian cites PHIPA Decision 17, at paragraph 105 where the adjudicator stated that “legal strategy and approaches to dealing with the complainant” are not considered personal health information. The custodian says that in this case:

... the notes were created for administrative purposes to take into account risk management arising out of complaints and any personal health information is incidental to this purpose.

[25] The custodian also says that it subsequently provided a copy of the notes to its lawyers to obtain legal advice. Specifically, the custodian says that it provided copies of

the notes to its counsel on retainer on December 3, 2020 and other counsel on August 21, 2021.

[26] Applying the qualitative approach to section 52(3), I find that the notes are dedicated primarily to the personal health information of the complainant. Most of the information in the notes recites information the complainant provided the Director during their meeting. The complainant describes to the Director his experience at the facility as a patient and what he thinks should happen to address his concerns. A small portion of the notes capture the Director's response to the complainant's concerns. I disagree with the custodian's assertion that the notes are similar to the emails at issue in PHIPA Decision 101. The notes do not contain the personal health information of individuals other than the complainant whereas the emails at issue in PHIPA Decision 101 did. The emails at issue in PHIPA Decision 101 were exchanged between hospital staff regarding allegations made against the requester and how the hospital should respond. The adjudicator in PHIPA Decision 101 found that the requester's personal health information was included for context to identify the matter but was "not the main topic under discussion."¹⁰ Here, I find that the purpose for which the complainant's personal health information was included in the notes was for more than to simply provide context.

[27] The concerns the complainant brought to the Director's attention are directly related to the medical services he received as a patient and form the basis for the creation of the record. Accordingly, I find that the personal health information in the notes is central to the purpose for which the record exists. I note that the Director in her email to the respondent denying access to the notes says that the meeting was "held for the purpose of allowing you to share your concerns regarding the MTO report regarding your vision."¹¹ Accordingly, I am satisfied that the main purpose of the meeting was for the Director to listen and address, if possible, the complainant's concerns regarding his patient experience.

[28] Though I accept the custodian's evidence that it subsequently provided a copy of the notes to its lawyers, this action in itself does not alter the main purpose of the meeting when it was scheduled. Nor does the custodian's evidence that the notes were created by the Director to "take into account risk management arising out of complaints." In my view, a record can be created for more than one purpose. What is relevant in assessing the purpose of the personal health information in the record or the reason the record was created is its primary purpose. Later in this decision, I will go on to determine whether the custodian's use of the notes for litigation purposes are protected by the legal privilege exemption under sections 52(1)(a) and (c).

[29] In determining whether the notes are "dedicated primarily" to the personal health information of the complainant, I considered the factors set out in PHIPA Decision 17

¹⁰ Paragraph 38 in PHIPA Decision 101.

¹¹ Email, dated December 15, 2020.

along with the circumstances of this complaint and find that:

- most of the information in the notes comprises of personal health information the complainant provided the Director about himself,
- the notes do not contain the personal health information of other individuals,
- the personal health information in the notes is not incidental to the subject-matter discussed in the notes but the main topic,
- the main reason the record was created is connected to the purpose of the meeting, which in the Director's own words was to allow the complainant an opportunity to share his concerns about his patient experience which resulted in a MCR being filed with the MTO, and
- the personal health information of the complainant is central to the purpose for which the record exists – to document the complainant's concerns discussed at the meeting.

[30] Having regard to the above, I find that the notes before me are dedicated primarily to the personal health information of the complainant. I am satisfied the complainant's personal health information is central to the purpose for which the record exists and that the record would not exist "but for" the complainant's personal health information.

B. Do the of the exemptions at sections 52(1)(a) or (c) of *PHIPA* apply to the notes?

[31] Parts of a record may be exempt from the right of access in *PHIPA*. Exemptions may apply whether the right of access is under section 52(1) or 52(3) of *PHIPA*—namely, whether or not the record is "dedicated primarily" to the personal health information of the requester.

[32] Since I have found that the notes are dedicated primarily to the personal health information of the complainant, he has a right of access under *PHIPA* to the whole record. However, section 52(1) provides that part(s) of the record may be exempt from the right of access.

[33] The custodian says that the notes are subject to a litigation privilege and cites the exemptions at sections 52(1)(a) and (c). These sections read:

Subject to this Part [Part V of *PHIPA*, setting out the rights of access and correction], an individual has a right of access to a record of personal health information about the individual that is in the custody or under the control of a health information custodian unless,

(a) the record or the information in the record is subject to a legal privilege that restricts disclosure of the record or the information, as the case may be, to the individual;

(c) the information in the record was collected or created primarily in anticipation of or for use in a proceeding, and the proceeding, together with all appeals or processes resulting from it, have not been concluded;

[34] In its representations, the custodian states:

Prior to the meeting, the complainant had expressed that he would be contacting the College of Physicians and Surgeons of Ontario [CPSO] and that [the Director] may be named in his complaint. At the time of the meeting, the complainant had discussed his intention to file his complaints with various regulatory bodies, commence a legal action, and case law relating to visual testing and reporting. By the time the complainant sent an email requesting the Notes on November 24, 2020, litigation [had commenced]...

The dominant purpose of the Notes was to keep the internal team and legal counsel, appraised of possible and in this case, actual litigation. The Notes were created for internal purposes to manage risks relating to the complaints. This is further evidenced by the fact that the Notes are not tied to the complainant's medical record, but are instead stored in a separate electronic location than the remainder of the complainant's medical record. The Notes were shared with CVFHT's counsel on retainer on or around December 3, 2020 to obtain legal advice on best practices to handle the access request within CVFHT's professional obligations. The Notes were subsequently submitted to [a different law firm] on August 19, 2021 in preparation of upcoming mediation and now arbitration.

[35] The custodian says that the adjudicator's finding in PHIPA Decision 33 supports its assertion that litigation privilege applies to the notes. In PHIPA Decision 33, the adjudicator found that the following types of records exempt by reason of legal privilege:

- communications between hospital staff and its lawyers for the purpose of obtaining legal advice and reporting potential litigation matters,
- communications between hospital staff that contain a summary of legal advice that would otherwise reveal legal advice, or that were created to update staff and external parties on the various litigation matters commenced by the requester,
- documents created by the hospital's patient relations department that set out a chronology of events and compilation of concerns raised by the requester,

- internal communications between hospital staff setting out its concerns, approaches and strategies with respect to existing and potential litigation matters involving the requester.

[36] Here, the custodian says that “[s]imilar to PHIPA Decision 33, the Notes were created in reasonable contemplation of litigation based on communications that had taken place before, during and after the meeting in question.”

[37] In response, the complainant says that the notes not only contain his personal health information but are “evidence” which should have been disclosed during the court proceedings.

[38] The custodian, in turn, says that the complainant’s assertions demonstrate his intention to pursue legal actions against the facility and its physicians. The custodian takes the position that the personal health information in the notes is contained in a record created for its use in actual or reasonably contemplated litigation and that it has not waived its privilege in any of the information.¹² The custodian also takes the position that the personal health information in the notes can not reasonably be severed from the portions it says is exempt under sections 52(1)(a) and (c).

[39] The parties do not dispute that the litigation matter has not yet concluded. Common law litigation privilege generally comes to an end with the termination of litigation.¹³ However, the termination of litigation does not end the statutory litigation privilege.¹⁴ The statutory litigation privilege protects records prepared for use in the mediation or settlement of litigation.¹⁵

[40] The statutory and common law litigation privileges, although not identical, exist for similar reasons. Common law litigation privilege is based on the need to protect the adversarial process by ensuring that counsel for a party has a “zone of privacy” in which to investigate and prepare a case for trial.¹⁶ The litigation must be ongoing or reasonably contemplated for the common law litigation privilege to apply.¹⁷ This privilege protects records created for the dominant purpose of litigation. It protects a lawyer’s work product but also covers material going beyond communications between lawyer and client.¹⁸

¹² The custodian did not claim that the common or statutory solicitor-client privileges apply.

¹³ *Blank v. Canada (Minister of Justice)*, cited above.

¹⁴ *Ontario (Attorney General) v. Ontario (Information and Privacy Commission, Inquiry Officer)*, cited above.

¹⁵ *Liquor Control Board of Ontario v. Magnotta Winery Corporation*, 2010 ONCA 681.

¹⁶ *Blank v. Canada (Minister of Justice)* (2006), 270 D.L.R. (4th) 257 (S.C.C.) (also reported at [2006] S.C.J. No. 39).

¹⁷ Order MO-1337-I and *General Accident Assurance Co. v. Chrusz*, cited above; see also *Blank v. Canada (Minister of Justice)*, cited above.

¹⁸ *Ontario (Attorney General) v. Ontario (Information and Privacy Commission, Inquiry Officer)* (2002), 62 O.R. (3d) 167 (C.A.).

Decision and analysis

[41] The custodian says that at the time the notes were created the Director was aware that the complainant had planned to commence legal action against certain doctors. The complainant does not dispute that he was contemplating legal action against the facility and/or its doctors before he attended the meeting. The parties appear to agree that the legal proceedings commenced by the complainant remain outstanding.

[42] However, in my view, the content of the notes does not support the custodian's position that the notes were created for the dominant purpose of litigation or collected/created primarily in anticipation of an ongoing proceeding. As noted above, the notes are almost entirely comprised of the Director's notations regarding the complainant's assertions regarding concerns related to his patient experience. Small portions of the notes document what information the Director told the complainant.

[43] In its representations, the custodian says that the notes were "based on communications that had taken place before, during and after the meeting in question." I do not agree with the custodian's description of the notes in this regard. In my view, the notes simply document the topics the Director and the complainant discussed at the meeting. The notes themselves do not appear to capture information or communications exchanged before or after the meeting. The notes cannot be said to contain information which legal counsel requires a "zone of privacy" to investigate and prepare a case as the complainant did most of the talking and was present to hear what the Director told him.

[44] As noted above, the Director in her email to the complainant denying access to the notes said that the meeting was "held for the purpose of allowing [him] to share [his] concerns". Without disclosing the content of the notes, I note that the Director did what one would expect a physician in a leadership role do at a meeting in which a patient seeks an audience to discuss their concerns. She listened to the complainant, documented his concerns (including his threats to take legal action), explained the facility's standard procedures and agreed to look into issues relating to delay. Accordingly, I am satisfied that the ***primary*** purpose of the meeting between the Director and the complainant was to afford the complainant an opportunity to air his grievances relating to his patient experience. Accordingly, I find that the notes were not prepared for the dominant purpose of litigation or collected/created primarily for use in an anticipated proceeding.

[45] In addition, I find that the custodian's evidence that the notes subsequently were used to further other purposes such as obtaining legal advice, preparing for mediation or "risk management" falls short of demonstrating that the notes, when they were created, were created primarily for litigation purposes. Relevant to this finding is the custodian's own evidence that its use of the notes for legal advice or litigation purposes did not occur until almost a year had passed from when the meeting took place.¹⁹ I also find that the

¹⁹ The meeting between the Director and complainant took place on January 18, 2019. The custodian's evidence is that it provided a copy of the notes to its counsel on retainer on December 3, 2020 and counsel hired for litigation purposes on August 19, 2021.

notes are quite different from type of records found exempt in PHIPA Decision 33, which comprised of communications exchanged between hospital staff to summarize legal advice, concerns and strategies communicated to them by their counsel.²⁰ For the privilege to apply, the custodian need not demonstrate that the notes comprise of its lawyers' work product as the privilege can apply to materials going beyond communications between lawyer and client. However, the custodian's evidence must demonstrate that the primary purpose for the creation of the notes was for litigation purposes and based on the contents of the records, I find that the primary purpose was not related to the statutory or common law litigation privileges.

[46] For the reasons set out above, I find that the legal privilege exemptions under sections 52(1)(a) and (c) do not apply to the notes. As no other exemption has been claimed, I order the custodian to grant the complainant access to his personal health information in the notes. Given that the notes are dedicated primarily to the personal health information of the complainant, his right of access under *PHIPA* is to the whole record.

ORDER:

1. For the foregoing reasons, pursuant to section 61(1) of the *Act*, I order the custodian to grant the complainant access to the notes by sending a copy to him by **April 8, 2024**.

Original Signed By: _____

Jennifer James
Adjudicator

February 28, 2024

²⁰ I also find that the chronology of events the adjudicator in PHIPA 33 found exempt differs from the notes before me. In doing so, I note that the adjudicator in PHIPA Decision 33 accepted the hospital's evidence that the chronology was created for the sole purpose of providing it to the hospital's lawyer.