



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

INVESTIGATION REPORT

INVESTIGATION I95-005P

WORKERS' COMPENSATION BOARD

May 16, 1995



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning the Workers' Compensation Board (the Board). The complainant stated that a named Board's physician had improperly disclosed his personal information to the College of Physicians and Surgeons (the College) without his consent.

In May 1994, the complainant had filed a complaint with the College. In his complaint, he had alleged that the physician had verbally abused him, had conducted an improper examination and had not been qualified to examine him because the physician was not a neurosurgeon.

After receiving the formal complaint, the College had written to the physician on June 17, 1994 stating:

I would advise that you make written submissions for the Committee's consideration within (30) days of receipt of this letter. Under the Regulated Health Professions Act, the College should obtain all records and documents relating to a complaint. Therefore, should you decide to revise your written response to [the named complainant's] allegation as outline above, it would be appreciated if you forward a copy of your office records relative to the complainant's allegations.

On July 8, 1995 the physician submitted a response to the College which included photocopies of the relevant reports and memos from the complainant's file.

The complainant was of the view that the physician should not have disclosed his medical information to the College and that his rights under the Freedom of Information and Protection of Privacy Act (the Act) had been violated.

Issues Arising from the Investigation

The following issues were identified as arising from the investigation:

- (A) Was the information in question "personal information" as defined in section 2(1) of the Act? If yes,
- (B) Was the disclosure of the complainant's personal information in compliance with section 42 of the Act?

RESULTS OF THE INVESTIGATION

Issue A: Was the information in question "personal information" as defined in section 2(1) of the Act?

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

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

- (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;

The information in question included the complainant's name together with his medical information. Therefore, it is our view that this information met the requirements of paragraph (h) of the definition of personal information in section 2(1) of the Act.

Conclusion: The information in question was "personal information" as defined in section 2(1) of the Act.

Issue B: Was the disclosure of the complainant's personal information in compliance with section 42 of the Act?

Section 42 of the Act sets out the rules for disclosure of personal information other than to the individual to whom the information relates. This section provides that an institution shall not disclose personal information in its custody or under its control, except in the circumstances listed in sections 42(a) through (n).

Section 42(c) of the Act states:

An institution shall not disclose personal information in its custody or under its control except,

- (c) for the purpose for which it was obtained or compiled or for a consistent purpose;

Section 43 of the Act further provides that:

Where personal information has been collected directly from the individual to whom the information relates, the purpose of a use or disclosure of that information is a consistent purpose under clauses 41(b) and 42(c) only if the individual might reasonably have expected such a use or disclosure.

The Board submitted that the disclosure of the complainant's personal information was in compliance with section 42(c) of the Act. The Board stated that in June 1992, the complainant had been examined by the physician and a medical report had been filed in the complainant's claim file. The report had been used by the Board to determine the complainant's entitlement to benefits under the Workers' Compensation Act (the WCA).

The Board stated that after the complainant had complained to the College, the physician had sent a response to the College which included reports and memos from the complainant's file. It was the Board's view that it was reasonable for the physician to disclose relevant information about the complainant to the College since it had requested copies of the physician's office records relative to the complainant's allegations.

In addition, the Board stated that if the physician had not respond in this manner, he/she would have been guilty of a professional misconduct under section 30 of the Regulated Health Professions Act which requires a physician to respond appropriately to a written inquiry from the College.

It was the Board's view that, therefore, the physician needed to disclose the complainant's personal information to the College in order to provide a full and complete response to the complainant's allegations. It was the Board's position that it was reasonable for the complainant to have expected the disclosure of his personal information to the College and, therefore, the disclosure was for a consistent purpose.

It is our view that one of the purposes for which the Board's physician obtained the complainant's personal information through the medical examination was to determine his entitlement to benefits under the WCA.

The complainant had then filed a complaint with the College against the physician alleging that this medical examination had been improper and that the physician had not been qualified to examine him.

It is our view that the physician's subsequent disclosure of the complainant's personal information to the College was to provide an appropriate and full response to the complainant's allegations about the physician and the medical examination, thereby, enabling the College to proceed with its investigation of his complaint. It is also our view that having filed his complaint about the physician with the College, it was reasonable for the complainant to have expected that the physician would have to disclose relevant details of the medical examination and/or other medical information to the College. Therefore, the Board's disclosure to the College was for a consistent purpose, in compliance with section 42(c) of the Act.

Conclusions: The complainant's personal information was disclosed in compliance with section 42 of the Act.

SUMMARY OF CONCLUSIONS

- The information in question was "personal information" as defined in section 2(1) of the Act.
- The complainant's personal information was disclosed in compliance with section 42 of the Act.

Original signed by:
Susan Anthistle
Compliance Review Officer

May 16, 1995
Date
