ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER H2009-002

June 7, 2011

ALBERTA HEALTH SERVICES

Case File Number H2174

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Summary: The Applicant requested his health records from a health region that has since been subsumed by Alberta Health Services. In responding to the access request under the *Health Information Act*, the health region applied section 11(1)(a)(ii) of the Act to deny the Applicant access to some information on 174 pages out of 192 pages of responsive records. The Applicant asked the Information and Privacy Commissioner to review the application of section 11(1)(a)(ii) to the redacted information.

The Commissioner reviewed all of the materials submitted to him by the parties to this inquiry, including the responsive records themselves and substantial *in camera* argument and affidavit evidence. He found that all of the information severed from the records was the Applicant's health information and that all three of the requirements of the harms test—namely, that there be a reasonable expectation of probable harm, that the harm constitute damage or detriment and not mere inconvenience, and that there be a causal connection between disclosure and the anticipated harm—were met in relation to all such information.

Accordingly, the Commissioner confirmed the decision to sever all of the redacted information under section 11(1)(a)(ii) of the Act.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, s. 4; *Health Information Act*, R.S.A. 2000, c. H-5, ss. 1, 2, 7, 10, 11, 79, 80, 91; *Criminal Code*, R.S.C, 1985, c. C-46, s. 264.1.

Orders Cited: AB: 96-003, 96-004, 98-016, 2001-010, H2002-001, H2003-001, F2004-005 & H2004-001, F2005-009, F2005-026.

Court Cases Cited: *Alberta (Workers' Compensation Board) v. Appeals Commission*, [2005] A.J. No. 1012; *McInerney v. MacDonald*, [1992] 2 S.C.R. 138; *Qualicare Health Service Corporation v. Alberta (Office of the Information and Privacy Commissioner)*, 2006 ABQB 515; *University of Alberta v. Alberta (Information and Privacy Commissioner)*, 2009 ABQB 112.

I. BACKGROUND

[para 1] On May 23, 2008, the Applicant submitted a request for his "complete health records" from a named facility and for a fee waiver. This request was deemed to have been made under the *Health Information Act*, R.S.A. 2000, c. H-5, which has since been amended (without distinction as between versions of the statute except as expressly noted below, the "Act"). On May 26, 2008, the Applicant clarified his first request and, perhaps, added to it by including another facility. On June 17, 2008, in response to the May 23 and May 26 requests (together, the "Access Request"), the David Thompson Health Region provided the Applicant with a bundle of his health records, from which some information was severed in reliance on section 11(1)(a) of the Act; also, at some point, the fee waiver was granted. By letter dated June 19, 2008, the Applicant pointed out that "almost all useful needed information has been severed"; he also asked that the extent of the severing be reconsidered, requested clarification as to the particular provision(s) of section 11(1)(a) relied upon as authority for the severing, and asked that the location of severed information be identified on the records. On June 26, 2008, the David Thompson Health Region responded by clarifying that it had applied section 11(1)(a)(ii) in severing all of the redacted information and by providing a new bundle of the Applicant's health records (the "Responsive Records"), on which it identified from where on individual records information had been severed.

[para 2] As a result of reorganization within the public health sector, the David Thompson Health Region has been subsumed by Alberta Health Services (without distinction, the "Custodian").

[para 3] The Applicant requested that I review the Custodian's response to his Access Request. I authorized an investigation and attempt to settle this matter, which was unsuccessful. The Applicant then requested this inquiry.

[para 4] The Notice of Inquiry identifies the Custodian's application of section 11(1)(a)(ii) as the only issue in this inquiry. The Applicant subsequently requested that section 10 of the Act be added as an issue, but I refused his request as there was no basis for his allegation of an issue under section 10. Informally in the course of this inquiry, the Applicant also alleged that he was being treated unfairly by me and my staff, which allegations I addressed contemporaneously. Ultimately, I received the following

submissions and materials, all of which are properly before me for the purposes of this inquiry: the Applicant's exchangeable submission, the Custodian's two exchangeable submissions, the Custodian's *in camera* submission along with three supporting affidavits that I also accepted *in camera,* an Index of Records prepared by the Custodian, and the unsevered Responsive Records that I also accepted *in camera*.

II. RECORDS AT ISSUE

[para 5] The Responsive Records consist of 192 pages of the Applicant's medical file(s), numbered consecutively. No information appears to have been severed from eighteen of those pages. Pursuant to section 11(1)(a)(ii) of the Act, the Custodian severed information from the following 174 pages of the Responsive Records: 1 to 3, 5 to 24, 26 to 28, 30 to 33, 35 to 43, 45 to 53, 55 to 87, 89, 91, 92, 95, 98, 100 to 123, 125, 126, 128 to 131, 133 to 144, 146 to 157 and 159 to 192 (collectively, the "Records at Issue").

III. ISSUES

[para 6] The Notice of Inquiry sets out the sole issue in this inquiry:

Issue A: Did the Custodian properly apply section 11(1)(a)(ii) of the Act to the records/information?

IV. DISCUSSION OF THE ISSUES

Issue A: Did the Custodian properly apply section 11(1)(a)(ii) of the Act to the records/information?

[para 7] The purposes of the Act, as set out in section 2, include "(d) to provide individuals with a right of access to health information about themselves, subject to limited and specific exceptions as set out in this Act". This purpose is reflected in section 7 of the Act, which states in part:

> ***7(1)*** *An individual has a right of access to any record containing health information about the individual that is in the custody or under the control of a custodian.*
>
> ***(2)*** *The right of access to a record does not extend to information in respect of which a custodian is authorized or required to refuse access under section 11, but if that information can reasonably be severed from a record, an individual has a right of access to the remainder of the record.*
>
> ***(3)*** *The right of access to a record is subject to the payment of any fee required by the regulations.*

All of the Responsive Records, including the Records at Issue, contain at least some health information of the Applicant and are in the custody or under the control of Alberta Health Services and, previously, its predecessor, the David Thompson Health Region.

[para 8] The right of access to one's health information under section 7 is expressly circumscribed by section 11 of the Act. Prior to releasing the Applicant's health records to him in response to his Access Request, the Custodian relied on section 11(1)(a)(ii) of the Act to sever some information from the Responsive Records. Section 11(1)(a) of the Act states:

> ***11(1)*** *A custodian may refuse to disclose health information to an applicant*
>
> *(a) if the disclosure could reasonably be expected*
>
> *(i) to result in immediate and grave harm to the applicant's mental or physical health or safety,*
>
> *(ii) to threaten the mental or physical health or safety of another individual, or*
>
> *(iii) to pose a threat to public safety[.]*

[para 9] The Act grants the Applicant a right of access to his health information subject to the proper application of the exception to disclosure set out in section 11. Section 79 of the Act allocates the burden in this inquiry to the Custodian to prove that the Applicant has no right of access to the information severed from the Records at Issue. Thus, to prove the proper application of section 11(1)(a)(ii) to the severed information, the Custodian must establish, first, that the redacted information is the Applicant's health information, and, second, that disclosure of that health information to the Applicant could reasonably be expected to threaten the mental or physical health or safety of another individual.

Is the information severed from the Records at Issue the Applicant's health information?

[para 10] As at the date of the Access Request, "health information" was defined at section 1(1)(k) of the Act as follows:

> *(k) "health information" means any or all of the following:*
>
> *(i) diagnostic, treatment and care information;*
>
> *(ii) health services provider information;*
>
> *(iii) registration information;*

Section 1(1) also defined "diagnostic, treatment and care information", "health service", "health services provider", "health services provider information" and "registration information". For ease of reference and in the interest of brevity, I will only set out here relevant excerpts of those definitions from the previous, applicable version of the Act that have since been amended or repealed:

> *(i) "diagnostic, treatment and care information" means information about any of the following:*
>
> *(i) the physical and mental health of an individual;*
>
> *(ii) a health service provided to an individual;*
>
> *(iii) the donation by an individual of a body part or bodily substance, including information derived from the testing or examination of a body part or bodily substance;*
>
> *(iv) a drug as defined in the* Pharmacy and Drug Act *provided to an individual;*
>
> *...*
>
> *and includes any other information about an individual that is collected when a health service is provided to the individual, but does not include information that is not written, photographed, recorded or stored in some manner in a record;*
>
> *...*
>
> *...*
>
> *(m) "health service" means a service that is provided to an individual*
>
> *(i) for any of the following purposes and is directly or indirectly and fully or partially paid for by the Department:*
>
> *(A) protecting, promoting or maintaining physical and mental health;*
>
> *(B) preventing illness;*
>
> *(C) diagnosing and treating illness;*
>
> *(D) rehabilitation;*

(E) caring for the health needs of the ill, disabled, injured or dying,

or

(ii) by a pharmacist engaging in the practice of pharmacy as defined in the Pharmacy and Drug *Act regardless of how the service is paid for,*

but does not include a service that is provided to an individual

(iii) by an ambulance attendant as defined in the Ambulance Services *Act,*

...

...

(o) "health services provider information" means the following information relating to a health services provider:

(i) name;

(i.1) business title;

(ii) business and home mailing addresses and electronic addresses;

(iii) business and home telephone numbers and facsimile numbers;

(iv) gender;

(v) date of birth;

(vi) unique identification number that

(A) is assigned to the health services provider by a custodian for the purpose of the operations of the custodian, and

(B) uniquely identifies the health services provider in relation to that custodian;

(vii) type of health services provider and licence number, if a licence has been issued to the health services provider;

...

(ix) education completed, including entry level competencies attained in a basic education program and post-secondary educational degrees, diplomas or certificates completed;

(x) continued competencies, skills and accreditations, including any specialty or advanced training acquired after completion of the education referred to in subclause (ix), and the dates they were acquired;

(xi) restrictions that apply to the health services provider's right to provide health services in Alberta;

...

(xiv) profession;

(xv) job classification;

(xvi) employment status;

...

(xviii) employer;

(xix) municipality in which the health services provider's practice is located,

(xx) provincial service provider identification number that is assigned to the health services provider by the Minister to identify the health services provider,

but does not include information that is not written, photographed, recorded or stored in some manner in a record;

....

The Parties' Submissions

[para 11] The parties agree that the information severed from the Records at Issue is the Applicant's health information. The Applicant makes the simple bare assertion in his submission that the Records at Issue contain his health information without elaborating upon or supporting this statement. The Custodian, on the other hand, describes the information in the Records at Issue to which it applied section 11(1)(a)(ii) as falling within three categories: (1) health services provider information or personal information of other individuals that would reveal the identity of the health services provider or other individual, as the case may be; (2) information documenting threats made by the

Applicant to staff of the Custodian or other individuals; and (3) diagnostic, treatment and care information ("DTCI") of the Applicant. Relying in part on section 4(1)(u) of the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25 (the "FOIP Act") and Orders F2004-005 & H2004-001, the Custodian's position is that all of the severed information is the Applicant's health information and, specifically, that "information about other individuals in the Records [at Issue]…should also be considered as 'health information' as such information became part of the [Responsive] Records for the sole purpose of providing health services to the Applicant."

Analysis

[para 12] Having reviewed the information that the Custodian severed from the Records at Issue under section 11(1)(a)(ii), I agree with the Custodian that all of it is of the same description as, or closely analogous to, the redacted information that I found to be health information in Orders F2004-005 & H2004-001. In those Orders, which were written together, I found that the names, initials and signatures (which "are merely alternative ways of describing a [health services provider's] name"), position titles, professional designations and credentials of that custodian's hospital staff all fell within the definition of "health services provider information" ("HSPI") and was therefore health information under the Act. I also found that notations made in conjunction with that applicant's ongoing treatment and care in the context of providing that applicant with mental health services was "other information about an individual that is collected when a health service is provided to the individual", being DTCI, and was within the definition of health information under the Act. Finally, I found that everything else in those forensic psychiatric records, including information provided by external sources in conjunction with the provision of mental health services to that applicant and, in particular, "the names, initials, signatures, position titles, professional designations, credentials and other information about other individuals in the health, justice, law enforcement, corrections and legal systems[,]…enabled the [custodian] to provide health services to [that applicant]". In respect of this finally grouping, I found that all of those records and that information "became part of the hospital records for the sole purpose of providing health services to [that applicant]". I noted that "[i]nformation prepared by non-custodians may not only be relevant but may well be essential to enable custodians and health services providers to provide safe and appropriate health services. Custodians must obtain sufficient information to provide the health services that are required by individuals…". I concluded: "These kinds of records formed the basis for and the raison d'etre for the provision of subsequent health services to [that applicant]. In my view, the balance of the information at issue in the records is other information about an individual that was collected when a health service was provided to [that applicant]. I find that this information falls within the definition of DTCI in section 1(1)(i) of [the Act]. Therefore, this is health information." All of the same reasoning applies in this case.

[para 13] Comparing the severed information at issue in this inquiry to that which I considered in Orders F2004-005 & H2004-001, and applying the same analysis as set out therein, I find that all of the information severed by the Custodian from the Records at Issue in reliance on section 11(1)(a)(ii) of the Act is the Applicant's health information.

The Custodian has met its burden of proof on this point by having provided the Records at Issue themselves, as supplemented by its submissions and as conceded by the Applicant himself. Accordingly, I find that the first requirement of the provision is met.

Could disclosure of the Applicant's health information to the Applicant reasonably be expected to threaten the mental or physical health or safety of another individual?

[para 14] The Custodian relied solely on section 11(1)(a)(ii) of the Act as authority to sever the Applicant's health information in response to the Access Request. Again, section 11(1)(a)(ii) states:

> ***11(1)*** *A custodian may refuse to disclose health information to an applicant*
>
> *(a) if the disclosure could reasonably be expected*
>
> *...*
>
> *(ii) to threaten the mental or physical health or safety of another individual….*

The Parties' Submissions

[para 15] I have reviewed in careful detail the arguments and evidence submitted by the parties. However, considering the personal nature of their contents and the overall context of this case, I will limit my descriptions of them here so as not to undermine the decision of the Custodian not to disclose health information to the Applicant and in order to safeguard the privacy of the Applicant upon publication of this Order.

[para 16] The Applicant submits that section 11(1)(a)(ii) of the Act does not apply to his severed health information. After citing the harms test from Orders 2001-010 and 96-003, he emphasizes that Order 2001-010 requires "evidence of a direct and specific threat to a person, and a specific harm flowing from the disclosure of information or the record" and that Order 96-004 requires "detailed evidence…to show the threat and disclosure of the information are connected and there is a probability that the threat will occur if the information is disclosed" (Applicant's emphasis removed). He also states that, in *McInerney v. MacDonald*, [1992] 2 S.C.R. 138, the Supreme Court of Canada held that "access [to their health information] should be given to patients unless there is a 'significant likelihood of a substantial adverse effect on the physical, mental or emotional health of the patient or harm to a third party[']" (Applicant's emphasis removed); however, as I found in Order H2002-001, "the criteria in the Act are slightly different from the McInerney test, and it is the criteria under the Act that I must consider."

[para 17] The Applicant's position is that there is no evidence of "any relationship between disclosure of the information and a probability that the fruits of the threat will occur if the information is disclosed." Rather, he posits that the absence of any offers of

assistance or follow-up treatment from the Custodian, combined with the fact that the Custodian has refused to disclose his health information to him, "is prima facie evidence that they [*sic*] do not believe there are any mental health issues at play in [his] case." He makes allegations against the Custodian and its staff and suspects that "the motivation behind [the Custodian's] refusal to give [him] [his] medical and health information is that they are likely concerned about the possibility of being sued and legal liability". He cites numerous reasons for wanting his health information records.

[para 18] In its first exchangeable submission, the Custodian agrees that the harms test from Orders H2002-001 and H2003-001 applies to section 11(1)(a) of the Act. The Custodian submits that the unsevered Responsive Records speak for themselves since they record "behaviour that could lead to a reasonable expectation of probable harm". The Custodian continues: "Additionally, the harm is not of an inconvenient or transitory nature. The Unsevered Records indicate that threats were made to [the Custodian's] staff and collaterals. The frequency and in some case the contemporaneous nature of such threats means there is a genuine casual [*sic*] connection between disclosure and anticipated harm." The Custodian also states that, in exercising its discretion to withhold some of the Applicant's health information, it "weighed the right of the individual to access their [*sic*] health information against safety to staff. The safety of staff was deemed to be paramount."

[para 19] In its supplemental exchangeable submission, the Custodian points out that, in Orders F2004-005 & H2004-001, I stated that the burden of proof may be met by providing the records at issue. The Custodian submits that in this case, although it has provided additional *in camera* argument and affidavit evidence, the body of unsevered Records at Issue speaks for itself. It also emphasizes that, according to Order F2005-026, the first head of the harms test does not require proof that the harm or interference will occur, but only that there is a reasonable likelihood that it could which, it claims, is demonstrated in this case by the Applicant's behaviour as recorded in the unsevered Records at Issue. In relation to the second head of the harms test, the Custodian states: "It is axiomatic that threats of injury or death directed to individuals constitute more than mere inconvenience. In this respect, it should be noted that even a 'conditional' threat can constitute a threat under the *Criminal Code*[,] R.S.[C], 1985[,] c. C-46[,] section 264.1." The Custodian cites and discusses a decision of the Ontario Court of Appeal and another of the Supreme Court of Canada in support of this line of its argument.

[para 20] Further, the Custodian distinguishes the specific facts of this case from Order H2002-001, in which parts of a patient record (being DTCI) were ordered disclosed where that applicant could consult with his physician for the appropriate medical interpretation. Finally, the Custodian relies on Order 96-003, which states that: "The threshold may vary depending on the context of the 'harm'. For example, in issues of threats to personal safety the threshold would be lower than with law enforcement matters".

[para 21] In addition to its exchangeable submissions, the Custodian provided very detailed and thorough argument and evidence *in camera*. In its *in camera* submission,

the Custodian defends its application of section 11(1)(a)(ii) of the Act by highlighting substantive excerpts of the Applicant's severed health information and introducing other evidence within its analysis of the harms test. Because these materials were properly submitted *in camera*, and were accepted on that basis, I am precluded from revealing any of their contents in support of my findings on the application of section 11(1)(a)(ii) to the health information severed from the Records at Issue. However, I wish to emphasize that I have reviewed the Custodian's *in camera* submission very carefully and afforded it due consideration in coming to my decision in this inquiry.

[para 22] In this respect, I note that the source or sources of some of the indirect evidence deposed to in the *in camera* affidavits is not identified because, the Custodian advises, they do not want to be identified, even confidentially. I accept the concerns of the anonymous sources in the context of this case, and I find, in any event, that the unattributed hearsay evidence is credible and compelling and supports the conclusions I draw from the balance of the *in camera* affidavit evidence and from the Responsive Records themselves. *University of Alberta v. Alberta (Information and Privacy Commissioner)*, 2009 ABQB 112 at paragraph 114 cites *Alberta (Workers' Compensation Board) v. Appeals Commission*, [2005] A.J. No. 1012, where the court stated that administrative tribunals "are entitled to act on any material which is logically probative, even though it is not evidence in a court of law" because tribunals are not bound by the strict rules of evidence that bind the courts. I find all of the *in camera* affidavit evidence to be highly probative in this case, and I have admitted it and relied on it in this inquiry after careful consideration and after having attributed appropriate weight to it.

Analysis

[para 23] Section 11(1)(a)(ii) of the Act permits the Custodian to refuse to disclose the Applicant's health information to him "if the disclosure could reasonably be expected…to threaten the mental or physical health or safety of another individual."

[para 24] The harms test has been applied to specific provisions of the FOIP Act in various orders of my office. The harms test requires proof of the following:

a. there must be a reasonable expectation of probable harm;
b. the harm must constitute damage or detriment and not mere inconvenience; and
c. there must be a causal connection between disclosure and the anticipated harm.

The application of and analysis under the harms test in one such order of mine, being Order F2005-009, was upheld by the court on judicial review: *Qualicare Health Service Corporation v. Alberta (Office of the Information and Privacy Commissioner)*, 2006 ABQB 515.

[para 25] Order H2002-001 and subsequent orders of my office have adopted the harms test in determining whether section 11(1)(a) has been properly applied. More specifically, I considered the application of section 11(1)(a)(ii) to health information

severed from mental health records similar to the Records at Issue in past orders, including Orders H2002-001, H2003-001 and F2004-005 & H2004-001. In each case, the analysis required by the harms test and the decision to uphold or overturn the custodian's application of section 11(1)(a)(ii) have turned on the facts of the case and the specific evidence placed before me about each applicant within the context of the particular inquiry. The same holds true here. Accordingly, although my past decisions may be helpful, they are not conclusive.

[para 26] In this case, the Custodian has applied section 11(1)(a)(ii) because of the numerous threats of serious bodily harm and death made by the Applicant to several individuals. As discussed in Order 96-003, the threshold that must be met under the harms test is flexible so as to adapt to the context of each given case; here, the threshold is lower than it would be in contexts not involving threats to personal safety. Moreover, Orders F2004-005 & H2004-001 permit a custodian to meet its burden of proof by submitting records at issue for my review. Although the Records at Issue record many of the Applicant's threats, the Custodian has gone even further by detailing, elaborating upon and adding to the evidence in the Records at Issue within its *in camera* argument and evidence. Indeed, while the exchangeable submissions of each of the Applicant and the Custodian were useful to me in this inquiry, my ultimate decision is based primarily on the Records at Issue themselves coupled with the *in camera* argument and affidavit evidence submitted by the Custodian.

[para 27] Because I am precluded, by section 91(3)(a) of the Act and by having properly accepted argument and evidence *in camera*, from revealing the details of my analysis of the harms test to the severed health information, I will do so only very generally and succinctly below. That said, I wish to assure both the Custodian and the Applicant that I reviewed and considered all of the submissions before me with great care and attention.

[para 28] *Reasonable expectation of probable harm:* According to Order F2005-026, this portion of the harms test does not require proof that the harm or interference will occur, but only that there is a reasonable likelihood that it could. I am convinced that the Applicant's behaviour as recorded in the unsevered Records at Issue and in the *in camera* affidavit evidence demonstrates that such a reasonable likelihood existed and continues to exist. Some of the Applicant's past threats are quite alarming in terms of both their nature and their detail, and it seems that, when making the threats, the Applicant believed—and openly and confidently stated—that he was capable of acting on his threats. There are also references to the Applicant having been violent in the past. I find that the first head of the harms test is made out in this case, in relation to all of the Applicant's health information severed from the Records at Issue.

[para 29] *Damage or detriment and not mere inconvenience:* Clearly, if the Applicant were to act, to any degree, on his threats, the repercussions to his victims would vastly exceed inconvenience. He does not threaten, or even contemplate, inconvenience or even detriment; he threatens severe injury and/or death, often in very

aggravated ways. I find that the second head of the harms test is made out in this case, in relation to all of the Applicant's health information severed from the Records at Issue.

[para 30] *Causal connection between disclosure and the anticipated harm:* The Custodian has presented examples of past actions taken by the Applicant *vis-à-vis* specific individuals, the details and context of which prove a causal connection between disclosure and harm and buttress the Custodian's rationale for severing both HSPI and DTCI from the Records at Issue. The concerns of the Custodian and of particular staff members and other individuals are, in my view, legitimate and well-founded. I find that the third head of the harms test is made out in this case, in relation to all of the Applicant's health information severed from the Records at Issue.

[para 31] Ultimately, I find that the Records at Issue speak for themselves and, *prima facie*, satisfy the harms test, particularly at the diminished threshold that is appropriate in this case. Further, I find that the Custodian has met its burden of proof using the Records at Issue and the *in camera* submission, which are very compelling.

[para 32] I also find that the Custodian complied with section 7 of the Act by completing a thorough, detailed review of the Responsive Records in the course of responding to the Access Request, and that it severed information in a reasonable manner so as to release to the Applicant as much of his health information as possible in the circumstances. I note that, in doing so, the Custodian considered the informed and thoughtful expertise of health professionals and others within the health system who specialize in diagnosing, treating and interacting with mental health patients. Also, although it appears that some of the information severed from particular Records at Issue has already been released to the Applicant, in that either there are duplicates (or near-duplicates) of Records at Issue on which the severing is not precisely mirrored or some of the Records at Issue are correspondence addressed (and presumably previously forwarded) to the Applicant, such discrepancies, if that is the proper term, are not determinative. I have considered the analysis of the former Commissioner in Order 98-016, wherein he found that a public body's waiver of a non-disclosure agreement with the federal government to enable release of records in response to a federal access to information request did not prevent the public body from applying exceptions to the release of information in those same records in the context of responding to an access request under the FOIP Act; similarly, I find that the previous release of some information in one or more of the Responsive Records may be persuasive but is not determinative in considering whether the same information may be withheld from other Records at Issue.

[para 33] Considering everything before me in this inquiry, I find that the Custodian was authorized to apply, and properly applied, section 11(1)(a)(ii) of the Act to all of the Applicant's health information that it severed from the Records at Issue. The Custodian has met its burden and has proven that the disclosure of all of the redacted health information of the Applicant to him "could reasonably be expected…to threaten the mental or physical health or safety of another individual".

V. ORDER

[para 34] I make this order under section 80 of the Act.

[para 35] I find that all of the information redacted from the Records at Issue is the Applicant's health information. I further find that disclosure of all such information "could reasonably be expected…to threaten the mental or physical health or safety of another individual" or, in this case, other individuals. The Custodian has met its burden of proof in both regards.

[para 36] Accordingly, I find that the Custodian is authorized under section 11(1)(a)(ii) of the Act to withhold all of the Applicant's health information severed from the Records at Issue which, I reiterate, is all of the redacted information, and I hereby confirm the Custodian's decision to do so.

Frank Work, Q.C.
Information and Privacy Commissioner