

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER P2015-02

April 16, 2015

COLLEGE OF PHYSICIANS AND SURGEONS OF ALBERTA

Case File Number P2219

Office URL: www.oipc.ab.ca

Summary: The Applicant made a request under the *Personal Information Protection Act* to personally examine a signed copy of a decision letter made by the College of Physicians and Surgeons of Alberta (CPSA) respecting a complaint he had submitted to it. The Applicant was not satisfied with the document provided for his review, nor with a subsequent document that was supplied to him.

The Adjudicator found that the information the Applicant was requesting was in the main not his personal information, and thus he had no right to ask for it under the Act. A small part of the document (identifying him as the complainant and implying the nature of the complaint) was his personal information, but he was already in possession of that information in any event. Thus the Adjudicator concluded the CPSA had not failed to meet any of its duties under the Act.

Statutes Cited: **AB:** *Personal Information Protection Act*, S.A. 2003, c. P-6.5: ss. 1(k), 24(3)(b), 27(1).

Orders Cited: **AB:** P2006-004.

BACKGROUND

[para 1] On October 9, 2012, the Applicant made a request under the *Personal Information Protection Act* (“PIPA”) or “the Act”) to the College of Physicians and Surgeons of Alberta (“CPSA” or “the Organization”). The Applicant asked to be able to personally examine the decision of the Complaint Review Committee, signed by Dr. John Pasternak, that the Committee had made concerning a complaint (about a doctor) that the Applicant had submitted to the CPSA.

[para 2] The Applicant attended at the CPSA office, but was not satisfied that the document he was given to review was the signed document he had asked to see. Further correspondence ensued as to the manner in which the signature of the document had been affixed, and about whether the fee the Applicant had paid should be refunded. Another document was provided to the Applicant but he was not satisfied with that document either, as it was the same document as the one of which he already had a copy. In his request for review the Applicant said he wanted the electronic document signed by Dr. Pasternak including the electronic signature. In his request for inquiry he explained he had wanted to see the “original copy on paper or computer”.

[para 3] The Applicant also says he was given different information about how the document had been signed at different times. In his submissions he makes statements indicating he is concerned about the authenticity of the document.

I. ISSUES

[para 4] The issues stated in the Notice of Inquiry are:

1. Was information in the decision document responsive to the Applicant’s request for his personal information? If yes, was the information in all copies or versions of the document or documents (whether signed ‘digitally’ or ‘electronically’, or by hand) responsive to the Applicant’s request for his personal information? If yes, were the *signatures* on any copies or versions of the document responsive to his request for his personal information?
2. If the answers to Question 1 are ‘yes’, did the Organization conduct an adequate search for any or all versions of the decision document, however signed?
3. If the Organization refused to provide access to any particular version or versions of the signed decision document, or in particular to the *signatures* on those versions or copies, (and if any such documents or signatures contained or consisted of the Applicant’s personal information) was the Organization’s refusal in accordance with section 24(3)(b) (the information would reveal personal information about another individual)?

In addressing this issue the parties may wish to consider whether the signatures, or any of them, were the personal information of the Applicant, or of the person signing, or both.

4. Did the Organization comply with its duty under section 27(1) of PIPA to assist the Applicant and to respond to the access request as openly and completely as possible? (This issue relates to the Applicant's assertion that the Organization took different positions at different times in correspondence with him and in meetings with him as to what versions of the document exist and how they were signed.)

II. DISCUSSION OF ISSUES

Is the requested information the Applicant's personal information?

[para 5] "Personal information" is defined in the Act (section 1(k)) as "information about an identifiable individual".

[para 6] The issue that must be decided first in this matter is whether the decision document, including its signature, is the Applicant's personal information. If it is not, the Applicant is not entitled to request the document under PIPA, and this disposes of the matter.

[para 7] In Order P2006-004, the former Commissioner dealt with the nature of information as personal or otherwise in the context of an access request made by a person who had made a complaint about a lawyer to the Law Society. With regard to whether information generated or collected in consequence of the complaint was the personal information of the person making it, the Commissioner said (at paras 11 and 12):

My jurisdiction over information requests under the *Personal Information Protection Act* is limited to access requests for personal information. Sections 24 and 46(1) of the Act combine to confer my jurisdiction. They provide:

24(1) Subject to subsections (2) to (4), on the request of an individual for access to personal information about the individual and taking into consideration what is reasonable, an organization must provide the individual with access to the following:

- (a) **the individual's personal information** where that information is contained in a record that is in the custody or under the control of the organization;

46(1) An individual who makes a request to an organization **respecting personal information about that individual** may ask the Commissioner to review any decision, act or failure to act of the organization. [emphasis added]

The Act defines "personal information" as "information about an identifiable individual". In my view, "about" in the context of this phrase is a highly significant restrictive modifier. "About an applicant" is a much narrower idea than "related to an Applicant". Information that is generated or collected in consequence of a complaint or some other action on the part of or associated with an applicant - and that is therefore connected to them in some way - is not necessarily "about" that person. In this case, only a part of the information that the [Applicant/Complainant] asked for was information "about" him.

[para 8] The former Commissioner found that information about the way the complaint had been handled by the Law Society, “consisting of correspondence and memos related to the handling of the complaints and other aspects of the complaint process” (see para 18), was not the Applicant’s personal information.

[para 9] This reasoning applies to the document at issue in the present case – the signed decision letter, which was generated as the final resolution of the Applicant’s complaint. I have reviewed the document in question, which was provided by the CPSA in its rebuttal submission. The only personal information of the Applicant that document reveals is that he made the complaint, and, in an oblique way, the nature of the complaint. (This is information the Applicant already has already has in any event.)

[para 10] In my view, neither the greatest part of the decision document that explains why the complaint was rejected, nor the signature at the end of it, is the Applicant’s personal information. This information is not *about him*; rather, it is about the decision that was being made.

The remaining issues

[para 11] The foregoing effectively disposes of issues 1, 2 and 3. As for the fourth issue (duty to assist), I have reviewed the correspondence between the Applicant and the CPSA. I see that there are some misunderstandings in the correspondence, possibly on both sides. However, there is nothing to suggest the CPSA was trying to mislead the Applicant, and Dr. Pasternak’s affidavit clearly bears out that there were no irregularities of any kind.

[para 12] I note, finally, that in its rebuttal submission, the CPSA included additional material which was intended to satisfy the Applicant that the signature on the document is that of Dr. Pasternak, and that the decision letter is authentic. The additional material the CPSA supplied is an affidavit sworn and signed by Dr. Pasternak, in which he attests that the document is a true copy of the original decision that was made. It also explains how, and that, his e-signature had been attached to it. This should, in my view, be sufficient to satisfy the Applicant that the document, a copy of which was also attached in its e-signed version, is authentic.

[para 13] Because the information in question was not the personal information of the Applicant, there was no obligation on the part of CPSA to make this extra effort. I commend it for its salutary approach.

III. ORDER

[para 14] In view of the foregoing, I find the College of Physicians and Surgeons of Alberta did not fail to comply with any of its duties under the Act.

Christina Gauk, Ph.D.
Adjudicator and Director of Adjudication