

January 20, 2005

Commissioner finds Custodian disclosed health information for purposes of a court proceeding in accordance with the Act

The Complainant said that Dr. Murji ("the Custodian") disclosed his health information to the Canadian Medical Protective Association ("CMPA") in contravention of the *Health Information Act*. The Complainant had brought a medical malpractice action against three physicians but not against the Custodian who was the complainant's treating physician. The CMPA, which is a defence organization or quasi-insurer for physicians, was representing the three defendant physicians. In an interview with legal counsel for the CMPA, the Custodian disclosed information about the Complainant's medical treatment. The Complainant had expressly objected to the interview.

The Commissioner found that section 3(a), which says the Act does not limit information otherwise available by law to a party to legal proceedings, allows the Act and the common law to co-exist and did not remove this disclosure from the scope of the Act. He found the Custodian disclosed the health information in accordance with section 35(1)(h) of the Act as the information was disclosed for the purpose of a court proceeding. Section 58(2) of the Act did not apply as the only issue was whether the Custodian could grant the interview, not the amount of information disclosed during the interview. The Commissioner also found that the Custodian had properly exercised her discretion to disclose.

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[Order H2004-005](#), contact:

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