



Order F25-54

BURNABY HOSPITAL

Jay Fedorak
Adjudicator

July 07, 2025

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Summary: The applicant requested from Burnaby Hospital records from her stay. Burnaby Hospital disclosed records but withheld some information under s. 22(1) (unreasonable invasion of privacy) of the *Freedom of Information and Protection of Privacy Act*. The adjudicator upheld the decision of Burnaby Hospital and required it to withhold the information under s. 22(1).

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, RSBC 1996 c. 165, ss. 22(1), 22(2)(f).

INTRODUCTION

[1] The applicant, who had been a patient at Burnaby Hospital, requested copies of her hospital records for the period of her stay. Burnaby Hospital disclosed records but withheld some information under s. 22(1) (unreasonable invasion of privacy) of the *Freedom of Information and Protection of Privacy Act* (FIPPA).

[2] The applicant requested the Office of the Information and Privacy Commissioner (OIPC) review the response of Burnaby Hospital.

[3] Mediation did not resolve the matter, and the applicant requested that it proceed to an inquiry.

[4] As part of its submission to this inquiry, Burnaby Hospital ceased to rely on s. 22(1) to withhold some of the information in dispute and disclosed that information to the applicant.

ISSUE

[5] The issue to be decided in this inquiry is whether Burnaby Hospital is required to refuse to disclose the information at issue under s. 22(1).

[6] Under s. 57(2) of FIPPA, the applicant has the burden of proving that disclosure of the information at issue would not be an unreasonable invasion of the personal privacy of third parties under s. 22(1). However, Burnaby Hospital has the initial burden to show that the information is personal information.¹

DISCUSSION

[7] **Records and information at issue** – The applicant has requested her hospital records, including information about her diagnosis and treatment and applications for financial assistance. There are 240 pages of responsive records, of which Burnaby Hospital has withheld 10 in whole or in part.

Section 22(1) – unreasonable invasion of privacy

[8] Previous Orders have outlined the proper approach in applying s. 22(1) of FIPPA. Order F15-03 is one example where the adjudicator provided a clear and succinct explanation of this approach, as follows:

This section only applies to “personal information” as defined by FIPPA. Section 22(4) lists circumstances where s. 22 does not apply because disclosure would not be an unreasonable invasion of personal privacy. If s. 22(4) does not apply, s. 22(3) specifies information for which disclosure is presumed to be an unreasonable invasion of a third party’s personal privacy. However, this presumption can be rebutted. Whether s. 22(3) applies or not, the public body must consider all relevant circumstances, including those listed in s. 22(2), to determine whether disclosing the personal information would be an unreasonable invasion of a third party’s personal privacy.²

[9] I take the same approach in my analysis of the application of s. 22(1) in the present case.

Step 1 – Is the information “personal information”?

[10] FIPPA defines “personal information” as recorded information about an identifiable individual, excluding “contact information”. It defines “contact information” as “information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual.”³

¹ Order 03-41, 2002 BCIPC 41 (CanLII), paras. 9-10.

² Order F13-03, 2013 BCIPC 3, para. 58.

³ FIPPA provides definitions of key terms in Schedule 1.

[11] Based on my review, I conclude the information at issue is information that third parties provided to medical staff about themselves and the applicant, as well as information recorded by medical staff that, if disclosed, would reveal information that the third parties had supplied. This constitutes information about identifiable individuals that is not contact information. Therefore, I find this information to be personal information of third parties and some of it is simultaneously the personal information of the applicant.

Step 2 – *Does s. 22(4) apply?*

[12] Neither party raised the application of s. 22(4). I do not see how any of the provisions apply. Therefore, I find that s. 22(4) does not apply.

Step 3 – *Does s. 22(3) apply?*

[13] It appears that Burnaby Hospital originally cited s. 22(3)(h) (personal recommendation or evaluation supplied in confidence) in its decision letter to the applicant but has ceased to rely on this provision for the purpose of this inquiry.

[14] Neither party raised the application of any other provisions of s. 22(3) in their submissions. I do not see how any of the provisions apply. Therefore, I find that s. 22(3) does not apply.

Step 4 – *Do the relevant circumstances in s. 22(2) rebut the presumption of unreasonable invasion of privacy?*

[15] The relevant provision of s 22(2) is as follows:

22 (2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all of the relevant circumstances, including whether

...

(f) the personal information has been supplied in confidence

[16] **Section 22(2)(f)** – Burnaby Hospital submits that the third parties provided the information at issue to health care providers with an expectation that the information would remain confidential and not be disclosed to the applicant. In support of its position, it cites Order F22-62, where the adjudicator found that information provided to physicians was usually provided in confidence and that it was reasonable for the sources of information to expect that the physicians would keep it confidential.⁴

⁴ Burnaby Hospital's initial submission, paras. 16-17; Order F22-62, 2022 BCIPC 70 (CanLII), para. 51.

[17] The applicant's response submission does not directly address the application of s. 22(2)(f). The applicant does question the fairness of imposing the burden on her to prove that disclosure of the personal information would not be an unreasonable invasion of privacy when she does not know the identity of the party who supplied the information at issue.⁵

[18] Burnaby Hospital has persuaded me that the third parties provided their personal information in confidence. Consistent with Order F22-62, I accept that sources usually provide their personal information to physicians in confidence and that it is reasonable for the sources in this case to expect the physicians and other health care professionals to keep this information confidential. It is clear from the nature of the comments of the third parties that it is the type of information they would not want the applicant to know.

[19] Therefore, I find that the third parties supplied their personal information in confidence, and this supports the withholding of the information.

[20] **Other relevant circumstances** – The applicant cites the following provisions that she submits apply in this case:

- 22(2)(a) the disclosure is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny,
- (b) the disclosure is likely to promote public health and safety or to promote the protection of the environment,
- (c) the personal information is relevant to a fair determination of the applicant's rights

[21] The applicant does not, however, provide any explanation or justification to support her contentions that these provisions apply. It is not evident from the content of the records that any of these provisions apply. Nor can I identify any reasons why they might apply. Therefore, I find that none of these circumstances are relevant in this case.

[22] Burnaby Hospital has not identified any other circumstances that might apply.

[23] The fact that some of the personal information is about the applicant is a relevant circumstance that weighs in favour of the disclosure of her information only. Nevertheless, from my review of the records, I find that it would not be possible to disclose any of the personal information of the applicant without revealing the identities of the third parties and other information about them that they had supplied in confidence. Therefore, I do not give this factor much weight.

⁵ Applicant's response submission, p. 31.

[24] Another relevant factor is the sensitivity of the personal information of the third parties. I find this information to be moderately sensitive and this weighs in favour of withholding the information. I cannot provide any further description of this information without revealing the identities of the third parties.

[25] From my review of the records, I do not see any other relevant circumstances that apply.

Conclusion on s. 22(1)

[26] I have found that the information in dispute is the personal information of the third parties and the applicant. There are no provisions in s. 22(4) that apply that would have excluded the application of s. 22(1).

[27] I have found that there are no provisions in s. 22(3) that apply that would establish the presumption that disclosure would be an unreasonable invasion of the personal privacy of the third parties.

[28] I have found that some of the personal information is about the applicant weighs in favour of the disclosure of that information. However, I have determined that it is not possible to disclose any of the personal information about the applicant without revealing the identities of the third parties and personal information about them.

[29] I have found it to be a relevant circumstance that the third parties supplied their personal information in confidence in accordance with s. 22(2)(f). This supports withholding the information. I have found the fact that the information of the third parties is moderately sensitive weighs in favour of withholding the information.

[30] I have also found that the applicant did not make a case that disclosure would not be an unreasonable invasion of the personal privacy of the third parties.

[31] In conclusion, I find that s. 22(1) applies to the personal information at issue, and Burnaby Hospital must withhold it.

Section 22(5) – Summary of Applicant's Personal Information

[32] Section 22(5) requires a public body to give an applicant a summary of personal information supplied in confidence about the applicant, unless the summary would identify the third party who supplied it. The relevant parts of s. 22(5) state:

22(5) On refusing, under this section, to disclose personal information supplied in confidence about an applicant, the head of the public body must give the applicant a summary of the information unless

(a) the summary cannot be prepared without disclosing the identity of a third party who supplied the personal information,

[33] The applicant cites s. 22(5) in her submissions and asks why Burnaby Hospital did not provide her with a summary of her personal information.⁶

[34] Burnaby Hospital submits that creating a summary of the applicant's personal information that was supplied in confidence would disclose the identity of the third parties who provided the information. The applicant's information is, according to Burnaby Hospital:

inextricably intertwined with the personal information of the third parties such that the Applicant's personal information cannot be disclosed to her without also disclosing the personal information of the third parties. Further, none of the information of the third parties can be rendered unidentifiable because of the nature of the information.⁷

[35] Having reviewed the information at issue, I find that it would not be possible to prepare a summary without identifying the third parties who supplied the information. In my opinion, the identities of the third parties are evident from the context of the information. Therefore, I find that s. 22(5) does not apply.

CONCLUSION

[36] For the reasons given above, I make the following order under s. 58 of FIPPA:

- I require Burnaby Hospital to withhold under s. 22(1) the personal information that it withheld under s. 22(1).

July 07, 2025

ORIGINAL SIGNED BY

Jay Fedorak, Adjudicator

OIPC File No.: F23-94773

⁶ Applicant's response submission, pp. 20-21.

⁷ Burnaby Hospital's initial submission, para. 18; Burnaby Hospital's reply submission, para. 7.