

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

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## PHIPA DECISION 307

Complaint HA23-00054

Hôpital de Mattawa Hospital

October 23, 2025

**Summary:** The complainant requested a copy of his minor child's medical records from Hôpital de Mattawa Hospital (the hospital). The hospital granted access to the entirety of the child's records, with the exception of two excerpts from a note made by a nurse practitioner. The hospital withheld these excerpts under section 52(1)(e)(iii) (confidential source) of *PHIPA*. In this decision, the adjudicator upholds the hospital's claim that the exemption in section 52(1)(e)(iii) applies to the withheld excerpts and dismisses the complaint.

**Statutes Considered:** *Personal Health Information Protection Act, 2004*, c. 3, Sched A, section 52(1)(e)(iii).

### BACKGROUND:

[1] The complainant submitted a request under the *Personal Health Information Protection Act* (*PHIPA* or the *Act*) to L'Hôpital de Mattawa Hospital (the custodian or hospital) for access to his minor child's medical records. The hospital initially granted access to the records, with the exception of a note contained in the child's file prepared by a nurse practitioner. The hospital denied access to the note based on section 52(1)(e)(iii), the exemption that applies when access could reasonably be expected to identify a confidential source.

[2] The complainant made a complaint about the hospital's decision to the Information and Privacy Commissioner of Ontario (IPC).

[3] The IPC attempted to mediate the complaint. Following mediation, the hospital provided an updated decision, in which it granted access to the note, but with two excerpts of it redacted on the basis of section 52(1)(e)(iii).<sup>1</sup> With no further resolution possible regarding access to the withheld excerpts, the complaint was moved to the adjudication stage of the complaint process, where an adjudicator may conduct a review under the *Act*.

[4] I conducted a review during which I received representations from the hospital and the complainant.

[5] In this decision, I uphold the hospital's decision that the exemption in section 52(1)(e)(iii) applies to the withheld information. I dismiss the complaint and issue no order.

## **RECORD:**

[6] The record at issue is a note in the complainant's minor child's medical record from which two portions have been withheld pursuant to section 52(1)(e)(iii).

## **DISCUSSION:**

[7] The sole issue to be decided in this complaint is whether the withheld information is exempt under section 52(1)(e)(iii).

### **Preliminary issues**

[8] There is no dispute the hospital is a health information custodian within the meaning of *PHIPA*, or that the record is a record of the complainant's minor child's personal health information.<sup>2</sup>

[9] There is also no dispute that the complainant, as a joint custodial parent of his child, who is less than 16 years of age, is authorized under section 23(1) of *PHIPA* to exercise his child's right of access under section 52 to the record.<sup>3</sup>

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<sup>1</sup> According to the mediator's report, the hospital claimed the exemption in section 52(1)(e)(i), which states that an individual does not have a right of access to a record of personal health information if granting access could reasonably be expected to result in a risk of serious harm to the treatment or recovery of the individual, or a risk of serious bodily harm to the individual or another person. The hospital clarified during the review that the reference to section 52(1)(e)(i) in the mediator's report was in error and that the hospital is only relying on section 52(1)(e)(iii) to deny access to the withheld information at issue.

<sup>2</sup> As defined in sections 3(1) and 4(1), respectively.

<sup>3</sup> Under section 52 of *PHIPA*, an individual has right of access to their own personal information. Section 23 identifies persons who may consent or make a request on the individual's behalf. Where a child is less than 16 years of age, section 23(1) provides that a child's parent may provide consent on the child's behalf.

**The exemption in section 52(1)(e)(iii) of PHIPA applies to the record, and the information cannot be severed under section 52(2)**

[10] Section 52(1)(e)(iii) of *PHIPA* states:

Subject to this Part [Part V of *PHIPA*, which sets out the rights of access and correction], an individual has a right of access to a record of personal health information about the individual that is in the custody or under the control of a health information custodian unless,

[...]

(e) granting the access could reasonably be expected to,

[...]

(iii) lead to the identification of a person who provided information in the record to the custodian explicitly or implicitly in confidence if the custodian considers it appropriate in the circumstances that the identity of the person be kept confidential[.]

[11] The hospital bears the burden of proving that section 52(1)(e)(iii) applies to the withheld information.<sup>4</sup> The applicable standard of proof requires the hospital to demonstrate that granting access to the withheld information could reasonably be expected to result in the harm in paragraph 52(1)(e)(iii), and that the risk of harm is beyond merely possible or speculative.<sup>5</sup> Although the hospital need not prove that granting access will, in fact, result in the specified harm, how much and what kind of evidence is needed will depend on the type of issue and the seriousness of the consequences.<sup>6</sup>

***Representations***

*The hospital's representations*

[12] The hospital submits that granting access to the entire record could reasonably be expected to lead to the identification of an individual who provided information to the hospital explicitly in confidence, and that it is appropriate to maintain the confidentiality of their identity.

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<sup>4</sup> See burden of proof in section 54(8)(b) of *PHIPA*.

<sup>5</sup> See PHIPA Decision 200 applying the standard of proof articulated in *Ontario (Community Safety and Correctional Services) v Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII). Also see PHIPA Decisions 34 and 100 (although decided in the context of section 52(1)(e)(i), the standard of proof is the same).

<sup>6</sup> *Ontario (Community Safety and Correctional Services) v Ontario (Information and Privacy Commissioner)*, at paras. 52-4.

[13] The hospital says that, in making its decision, it considered the sensitivity of the information, the potential impact of granting access on the individuals involved – including the source of the information – and the broader implications for the future sharing of similar information in a healthcare context.

[14] The hospital further submits that it balanced the complainant's authority to exercise his child's right of access to his personal health information against the need to protect the identity of individuals who provide information in confidence to health information custodians. It states that it provided the complainant with his child's entire record of personal health information, with the exception of the two excerpts from a nurse practitioner's note. The hospital maintains that any portions of the record that could be severed have already been provided to the complainant.

#### *The complainant's representations*

[15] The complainant submits that the child's mother attended the medical appointment in question, and is therefore aware of the identity of the source of the withheld information. He argues that, as the child's father with equal custodial rights and an equal right of access to the child's personal health information, he should not be denied access to information that is known to the child's mother. The complainant submits that the child's mother scheduled and attended the appointment without notice to him and that, given that she already knows the information, withholding it from the complainant perpetuates an imbalance in parental access and undermines the complainant's ability to ensure that his child's medical needs are met.

[16] The complainant maintains that denying him access to this information is not in the child's best interests, particularly in light of his submission that the child's mother has withheld information from him and excluded him from medical decision-making. He submits that this unequal access has adversely affected the child's care.

#### ***Analysis and findings***

[17] I have reviewed the record and considered the parties' representations. I am satisfied that granting access to the withheld information could reasonably be expected to identify an individual or individuals who provided certain information to the hospital and who, in light of the broader context reflected in the withheld excerpts, did so in confidence. In the circumstances, I agree with the hospital's decision to maintain the confidentiality of the information and the identity of the individual(s) who provided it.

[18] I am further satisfied that the risk of harm contemplated by section 52(1)(e)(iii) – the identification of a source who provided information explicitly or implicitly in confidence – is apparent from the withheld information itself. The surrounding context, including the nature of the information and the circumstances in which it was provided, supports the hospital's position that access could reasonably be expected to lead to identification of a confidential source. I accept that the information was provided with an expectation of

confidentiality, and that this expectation was reasonable.

[19] Section 52(2) of the *Act* provides that, despite section 52(1), an individual has a right of access to that part of a record of personal health information about the individual – or, as here, the complainant as a custodial parent – that can reasonably be severed from the part of the record to which access is not permitted, in this case because of section 52(1)(e)(iii). I find that the hospital has already released to the complainant all portions of the record that can reasonably be severed. The only information remaining at issue is that which, if provided to the complainant, could reasonably be expected to identify a source protected by section 52(1)(e)(iii).

[20] I am satisfied that the hospital made efforts to balance the complainant's right of access as a joint custodial parent with its duty to protect the identity of individuals who provide information in confidence in accordance with section 52(1)(e)(iii), and that it limited access only to information that is exempt under *PHIPA*. I agree with the hospital and find that it was appropriate to keep the information at issue confidential in the circumstances.

[21] For these reasons, I uphold the hospital's decision to deny access to the remaining portions of the records on the basis of section 52(1)(e)(iii) of *PHIPA*. I dismiss the complaint and issue no order.

## **NO ORDER:**

1. For the reasons set out above, no order is issued.

Original Signed by: \_\_\_\_\_

Jessica Kowalski  
Adjudicator

October 23, 2025 \_\_\_\_\_