

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 319

Complaint HA25-00130

The Ottawa Hospital

December 16, 2025

**Summary:** A patient of the hospital sought a review of the hospital's decision to deny her request under the *Personal Health Information Protection Act, 2004* to correct her record of treatment. The hospital had refused to correct the record because it considered the record to be accurate, and to consist of professional opinions or observations made in good faith (section 55(9)(b)).

In this decision, the adjudicator finds that no review is warranted under section 57(4)(a) of the *Act* because the hospital has responded adequately to the complaint. He dismisses the complaint without conducting a review.

**Statutes Considered:** *Personal Health Information Protection Act, 2004*, SO 2004, c 3, Sch A, sections 55(8), 55(9)(b), 57(3), and 57(4)(a).

### OVERVIEW:

[1] This decision addresses a patient's request to correct a record of treatment (the record) created following her treatment at the Ottawa Hospital (the hospital). After requesting and receiving the record, the patient submitted a correction request under the *Personal Health Information Protection Act, 2004* (the *Act*). In her request, the patient stated that the diagnoses and explanations of her medical history were incorrect and should be amended or deleted. The hospital denied her request, stating that it had spoken to the staff that treated her, and the staff considered the record to be accurate. The hospital informed the patient that she was entitled to prepare and attach a statement of disagreement to the record, but it refused to make her requested corrections.

[2] The patient (now the complainant) filed a complaint about the decision with the Information and Privacy Commissioner of Ontario (IPC). The IPC attempted to mediate the complaint. During mediation, the mediator provided a summary of the specific corrections that the complainant was seeking to the hospital. The hospital explained to the mediator that it had contacted the two doctors that were responsible for the information in the record, and following its discussions with the doctors it was maintaining its position that it was not required to correct the information. In addition to claiming that the information was accurate, the hospital also claimed that the section 55(9)(b) (professional opinion or observation made in good faith) exception to the duty to correct applies.

[3] No further mediation was possible, and the complaint was transferred to the adjudication stage of the complaints process, where an adjudicator may conduct a review. After reviewing the materials in the file, I wrote to the complainant advising her of my preliminary view that a review should not be conducted. The complainant provided written submissions in response to my preliminary view.

[4] For the reasons that follow, I find that the complaint should not proceed to a review under the *Act* because the hospital has adequately responded to the complaint. I dismiss the complaint without conducting a review.

## **DISCUSSION:**

### **Should the complaint proceed to a review under the Act?**

[5] Section 57(3) of the *Act* sets out the IPC's authority to review to a complaint. It states:

If the Commissioner does not take an action described in clause (1)(b) or (c) or if the Commissioner takes an action described in one of those clauses but no settlement is effected within the time period specified, the Commissioner may review the subject-matter of a complaint made under this Act if satisfied that there are reasonable grounds to do so.

[6] Section 57(4) outlines situations where the IPC may decide to not review a complaint. Section 57(4)(a) states:

The Commissioner may decide not to review the subject-matter of the complaint for whatever reason the Commissioner considers proper, including if satisfied that,

the person about which the complaint is made has responded adequately to the complaint[.]

[7] After considering the materials in the file and the complainant's written

submissions, I exercise my discretion to not conduct a review of the complaint.

**The hospital has adequately responded to the complaint**

[8] Section 55 of the *Act* addresses corrections to records of personal health information. Section 55(1) sets out the right to request a correction. It states:

If a health information custodian has granted an individual access to a record of his or her personal health information and if the individual believes that the record is inaccurate or incomplete for the purposes for which the custodian has collected, uses or has used the information, the individual may request in writing that the custodian correct the record.

[9] It is not disputed, and I find, that the hospital in this complaint is a “health information custodian” within the meaning of the *Act*.<sup>1</sup> Furthermore, there is no dispute that the complainant received access to the record under the *Act*, that it contains her “personal health information,” and that the complainant is entitled to make a request for correction to the record under the *Act*.<sup>2</sup> Accordingly, I will consider how the rights and duties in section 55 of the *Act* apply to the complainant’s request to the hospital.

[10] Section 55(8) imposes a duty on health information custodians to correct records of personal health information in some circumstances. It states:

The health information custodian shall grant a request for a correction under subsection (1) if the individual demonstrates, to the satisfaction of the custodian, that the record is incomplete or inaccurate for the purposes for which the custodian uses the information and gives the custodian the information necessary to enable the custodian to correct the record.

[11] Section 55(9) sets out exceptions to this duty. The hospital relies on section 55(9)(b), which states:

Despite subsection (8), a health information custodian is not required to correct a record of personal health information if,

it consists of a professional opinion or observation that a custodian has made in good faith about the individual.

[12] Read together, sections 55(8) and 55(9) set out when an individual is entitled to a correction of a record of their own personal health information.

[13] Here, the hospital refuses the complainant’s request for correction both on the grounds that she failed to satisfy the requirements of section 55(8) (to demonstrate that

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<sup>1</sup> Section 3(1) of the *Act*.

<sup>2</sup> As defined in sections 4(1)(a) and (b) of the *Act*. The rights of access and correction are set out in sections 52 and 55 of the *Act*, respectively.

the record is incomplete or inaccurate for the purposes for which the custodian uses the information), and that the exception at section 55(9)(b) applies (that the record consists of a good faith professional opinion or observation).

[14] I provided the complainant with my preliminary view that, regardless of the accuracy of the information in the record, it consists of professional opinions or observations made in good faith, and the section 55(9)(b) exception to the duty to correct therefore applies.

[15] In response, the complainant does not dispute that the record consists of professional opinions or observations. However, she provides submissions on the nature of the opinions or observations, asserting that they are untrue and slanderous. The complainant asserts that the doctors' notes about her level of intoxication during her visit to the hospital, past levels of alcohol consumption, and history of suicidal ideation are not accurate, and instead reflect information provided by another individual who accompanied her to the hospital. She particularly takes issue with one of the doctors who contributed to her record, generally stating that he acted unprofessionally in his interactions with her and that his comments resulted in her driver's license being suspended. She generally asks that all of this doctor's notes be removed from her record.

[16] Courts have stated that a finding that someone has not acted in good faith can be based on evidence of malice or intent to harm another individual, as well as serious carelessness or recklessness. The courts have also stated persons are assumed to act in good faith unless proven otherwise. Therefore, the burden of proof rests on the individual seeking to establish that a person has acted in the absence of good faith to rebut the presumption of good faith.<sup>3</sup> Accordingly, in the context of section 55(9)(b) of the *Act*, the burden rests on the complainant to establish that the doctor did not make the professional opinion or observation in good faith.<sup>4</sup>

[17] Considering the information in the file and the complainant's submissions, there is no evidence to suggest that the doctor did not make the observations in the record in good faith. The hospital's response shows that the doctors and the complainant have differing views about what transpired during her visit to the hospital, with the hospital and doctor taking the position that the information is accurate. It is clear that the complainant disagrees with the doctor's characterization of her health in the record, but this is not sufficient to rebut the presumption of good faith described above, regardless of the accuracy of the information.

[18] A finding that someone has not acted in good faith can be based on evidence of malice or intent to harm another individual, as well as serious carelessness or recklessness. To rebut the presumption and demonstrate bad faith, there must be evidence of the doctor acting with malice and with the intent to harm, or with serious

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<sup>3</sup> *Finney v. Barreau du Québec*, [2004] 2 SCR 17, 2004 SCC 36 (CanLII)

<sup>4</sup> See, for example, PHIPA Decisions 37 and 67.

carelessness or recklessness. Aside from her general assertions of disagreement, the complainant has not provided any such evidence, and I therefore find that the hospital has responded adequately to the complaint by refusing to correct the information. Accordingly, I exercise my discretion to not conduct a review and dismiss the complaint.

**NO REVIEW:**

For the foregoing reasons, no review of this matter will be conducted under Part VI of the *Act*.

Original Signed by: \_\_\_\_\_  
Chris Anzenberger  
Adjudicator

December 16, 2025 \_\_\_\_\_