

Information and Privacy Commissioner,
Ontario, Canada



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

PHIPA DECISION 320

File HI25-00008

Dr. Rita Kilislian/Kawartha Endodontics

Andrew Curnew

PHIPA Decision 271

December 17, 2025

Summary: This decision addresses Andrew Curnew's request for reconsideration of PHIPA Decision 271. PHIPA Decision 271 concluded an IPC-initiated review arising from allegations that Dr. Rita Kilislian, the owner and operator of Kawartha Endodontics (the clinic), and/or Andrew Curnew, Dr. Kilislian's former spouse, had used and disclosed the personal health information of clinic patients without authorization. In PHIPA Decision 271, the adjudicator declined to issue orders in respect of three of the four allegations. On the fourth allegation (concerning social media posts containing a clinic patient's personal health information), the adjudicator was unable to make a finding that Andrew Curnew had made the posts at issue. However, in the circumstances, and to protect that information from potential ongoing contraventions of *PHIPA*, the adjudicator issued some orders to Dr. Kilislian, as the health information custodian with broad duties under *PHIPA* to protect the security of clinic patients' personal health information.

In this reconsideration decision, the adjudicator finds that Andrew Curnew has not established any ground for reconsideration of PHIPA Decision 271. She denies the reconsideration request.

Statutes Considered: *Personal Health Information Protection Act, 2004*, SO 2004, c 3, Sch A, section 64(1).

Decisions Considered: PHIPA Decisions 25 and 271.

OVERVIEW:

[1] This decision addresses Andrew Curnew's request for reconsideration of PHIPA Decision 271. As I explain, I find that Andrew Curnew has not established any ground for reconsideration of PHIPA Decision 271, and I deny the request.

[2] Andrew Curnew was one of two respondents in a matter opened by the Office of the Information and Privacy Commissioner of Ontario (IPC) to address allegations that Dr. Rita Kilislian, the owner and operator of Kawartha Endodontics (the clinic), and/or Andrew Curnew, her former spouse, had used and disclosed clinic patients' personal health information without authority. Some of these allegations concerned a memo authored by Andrew Curnew in the context of a health regulatory proceeding in which he represented Dr. Kilislian. The memo, which contained information about a named former patient of the clinic (whom I called Patient X in PHIPA Decision 271), had been emailed to various area dental practices through a clinic email account, and posted on social media.

[3] The IPC conducted a self-initiated review of the matter under the *Personal Health Information Protection Act, 2004 (PHIPA)*. During the IPC review, I issued a private interim decision on Andrew Curnew's request for disclosure of the identities of two information sources to the IPC, along with the information provided by them. I then issued PHIPA Decision 271, a public decision setting out my findings on the four allegations made by the information sources. In that decision I also addressed, as a preliminary matter, Andrew Curnew's claims of conflict of interest or bias on the part of the IPC and me personally. I found no reasonable basis for those claims.

[4] With respect to the substantive allegations made against the respondents, I found that three of the four allegations had been appropriately dealt with by means of another procedure—namely, proceedings before a review board—and I exercised my discretion not to issue orders in respect of those allegations.

[5] On the fourth allegation—concerning postings of personal health information on social media—I explained why I was unable to make a finding, on a balance of probabilities, about who made the postings at issue. Nonetheless, in the circumstances, and given the contents of the postings, I concluded that it was necessary to issue certain orders to Dr. Kilislian, in view of her broad duties as health information custodian to protect personal health information in her custody or control.

[6] Among other things, I ordered Dr. Kilislian to take all steps that are reasonable in the circumstances to investigate and to remedy the potential ongoing contraventions of *PHIPA* represented by the posting made by a social media user with a name that is a variation of Andrew Curnew's name. I also ordered Dr. Kilislian to take all steps that are reasonable in the circumstances to retrieve from Andrew Curnew any personal health information he received for the purposes of representing Dr. Kilislian in the concluded health regulatory matter, and to ensure that Andrew Curnew securely disposes of any

copies of that information.

[7] After receiving PHIPA Decision 271, Andrew Curnew sent the IPC a series of emails expressing his dissatisfaction with my findings and requesting an internal review. I accepted those emails as Andrew Curnew's request for reconsideration of PHIPA Decision 271.

[8] For the reasons set out below, I deny Andrew Curnew's reconsideration request.

DISCUSSION:

Are any of the grounds for reconsideration present?

[9] Section 64(1) of *PHIPA* provides for reconsideration of orders made following a review under *PHIPA*. This section states:

After conducting a review under section 57 or 58 and making an order under subsection 61 (1), the Commissioner may rescind or vary the order or may make a further order under that subsection if new facts relating to the subject-matter of the review come to the Commissioner's attention or if there is a material change in the circumstances relating to the subject-matter of the review.

[10] In addition to the power under section 64(1) of *PHIPA*, the IPC has recognized its discretion to reconsider a decision on other grounds. These are set out in the IPC's *Code of Procedure for Matters under the Personal Health Information Protection Act, 2004* (the *Code*), which governs IPC proceedings under *PHIPA*. Section 27.01 of the *Code* states:

The IPC may reconsider a Decision at the request of a person who has an interest in the Decision or on the IPC's own initiative, where it is established that:

- a) there is a fundamental defect in the adjudication process;
- a) there is some other jurisdictional defect in the Decision;
- b) there is a clerical error, accidental error or omission or other similar error in the Decision; or
- c) new facts relating to an Order come to the IPC's attention or there is a material change in circumstances relating to the Order.

[11] In PHIPA Decision 25, the IPC recognized that the reconsideration power is not intended to provide a forum for re-arguing or substantiating arguments made (or to raise arguments not previously made) during a review, nor to address a party's mere

disagreement with a decision or legal conclusion.¹ The adjudicator in PHIPA Decision 25 noted the Supreme Court's acknowledgment of the sound policy basis for recognizing the finality of proceedings before administrative tribunals.²

[12] Through a series of emails to IPC staff, Andrew Curnew raised a number of objections to the findings in PHIPA Decision 271. While Andrew Curnew did not respond to my request that he identify the specific ground(s) under the *Code* for his reconsideration request, I have grouped his objections under the headings below based on my understanding of his claims.

Allegation of a fundamental defect in the adjudication process

[13] In one of his emails sent to the IPC after the release of PHIPA Decision 271, Andrew Curnew asked to know the identity of Patient X. As noted above, in that decision, I described as Patient X the former clinic patient whose information is contained in the memo drafted by Andrew Curnew in the context of a health regulatory proceeding in which he represented Dr. Kilislian. Many of the allegations considered in PHIPA Decision 271 concerned the dissemination of that memo by email and on social media (i.e., outside that health regulatory proceeding).

[14] In PHIPA Decision 271, in the context of describing my interim decision on Andrew Curnew's request for disclosure of the identities of and documentation provided by two information sources to the IPC, I explained why I had decided to grant the request in part. Specifically, I explained why I had concluded that disclosure of the identity of and relevant documents supplied by one information source, and a severed copy of relevant documents supplied by the second information source (redacted to withhold the second source's identity) was relevant and proportionate in the circumstances to meet the requirements of procedural fairness to Andrew Curnew (paragraphs 28 to 36 of PHIPA Decision 271). I noted that in making this decision, I had found significant that the identity of Patient X had not been withheld from the respondents, and that each respondent had submitted representations in the review identifying Patient X by name (paragraph 35).

[15] To the extent Andrew Curnew is now claiming that my failure to identify Patient X by name—either in my correspondence to the parties during the review preceding PHIPA Decision 271, or in the public decision itself—reflects a fundamental defect in the adjudication process, I find no basis for this claim. The identity of Patient X was not withheld from Andrew Curnew (or the other respondent), and Andrew Curnew provided

¹ PHIPA Decision 25, citing Order PO-3558-R at paras 21-24. The adjudicator in PHIPA Decision 25 recognized that the order arose in the context of a different statute (the *Freedom of Information and Protection of Privacy Act*); she also noted, however, that the principles expressed in that order, and in the orders and decisions quoted there, are generally applicable to a request for reconsideration under *PHIPA*, while recognizing the different legislative context and the fact that *PHIPA* contains the power set out in section 64.

² Former Assistant Commissioner Sherry Liang, citing Sopinka J. in *Chandler v. Alberta Association of Architects*, 1989 CanLII 41 (SCC), [1989] 2 SCR 848, at 861.

voluminous representations throughout the review that clearly demonstrates he was aware of Patient X's identity. Moreover, Andrew Curnew has not explained why and how the anonymization of the affected patient in the review documentation I sent to the parties, or in the public decision, amounts to a breach of the rules of natural justice protecting procedural fairness.

[16] I conclude that Andrew Curnew's comments about the anonymization of Patient X do not establish a fundamental defect in the adjudication process. They also do not establish any other ground for reconsideration of PHIPA Decision 271.

Allegations of some other jurisdictional defect in the decision

[17] Other claims made by Andrew Curnew do not refer specifically to this ground for reconsideration, but may raise jurisdictional concerns. They appear to question the IPC's jurisdiction to have conducted a review of matters involving him and Dr. Kilislian. Among other things, Andrew Curnew asks to know what authority the IPC has over him. He also implies that the IPC was misogynist in its treatment of Dr. Kilislian.

[18] In PHIPA Decision 271, I explained the basis for my finding that *PHIPA* governs the issues under review. Specifically, I found that Dr. Kilislian is a health information custodian within the meaning of *PHIPA*, with duties to protect personal health information in her custody or control (paragraphs 39-41). I found that the information at issue in most of the allegations under review (i.e., the contents of the memo authored by Andrew Curnew) is personal health information within the meaning of *PHIPA* (paragraphs 42-59). Finally, I found that whether as an agent or recipient, Andrew Curnew handled personal health information for Dr. Kilislian when he prepared the memo at issue for the health regulatory proceeding in which he acted as her representative. I found that in either role, Andrew Curnew was subject to the rules in *PHIPA* requiring that his use and disclosure of that information for this purpose be authorized by *PHIPA* (paragraphs 64-73). I see no basis for a claim that the IPC lacked jurisdiction to review this matter under *PHIPA*.

[19] Andrew Curnew also says the various IPC decisions in this file were founded in negligence, and are out of time for having been issued over a period of five years.

[20] During the review, Andrew Curnew made repeated allegations about the motivations and the credibility of the information sources, and the nature of the claims made by them. I considered his concerns, along with his allegations of fraudulent investigation and malicious prosecution by the IPC, during the review, and I addressed them as a preliminary issue in PHIPA Decision 271 (paragraphs 17-27). Andrew Curnew provides no evidence for his allegations of negligence that warrants my revisiting the findings I made there.

[21] Finally, Andrew Curnew does not provide a basis for his assertion that PHIPA Decision 271, or the private interim decision preceding it, must be reconsidered on the basis they are out of time. These decisions were issued following an IPC process during

which, among other things, the IPC received and investigated allegations from two information sources, notified and sought responses from Dr. Kilislian and Andrew Curnew, commenced a review under *PHIPA*, sought representations and supplementary representations from the respondents, sought additional representations from the respondents and from the two information sources on certain developments in the review, decided a procedural matter through an interim private decision to the parties, and issued a final decision disposing of the substantive issues under review. Andrew Curnew provides no support for his claim that the IPC was out of time to decide the matter, or for some other reason lacked jurisdiction to issue its decisions during the review, and I see no independent basis for such a claim.

[22] Andrew Curnew's claims under this heading do not establish any jurisdictional defect in the decision. They also fail to establish any other ground for reconsideration of PHIPA Decision 271.

Other claims

[23] Finally, the majority of Andrew Curnew's submissions in support of his reconsideration request concern his claim that I disregarded relevant evidence he filed during the review. He says that in PHIPA Decision 271, I wrongly state that he and Dr. Kilislian never provided me with a copy of a specific decision of the Health Professions Appeal and Review Board (HPARB) that is available on CanLII, when in fact he did so 14 times over the course of the review. He resends that decision to me, and he reports that individuals connected to the other party to that proceeding are being sued over that decision. He also reports that the other party has repeatedly published and circulated the HPARB decision.

[24] Andrew Curnew's further submissions include links to newspaper articles that, he says, show that the other party to the proceeding has been publicly admonished. He also forwards court documents, and email communications that he sent to other individuals associated with various court proceedings in which he is involved. Many of these are documents and copies of emails that Andrew Curnew submitted to me during the review.

[25] I understand Andrew Curnew to be providing all these materials in support of his claim, also made during the review, that the memo he drafted does not contain personal health information within the meaning of *PHIPA*. During the review, both respondents made this claim, based on their assertion that all the information contained in the memo is "public knowledge." In support, Andrew Curnew said, among other things, that all the information in the memo is already available publicly, including through the HPARB decision, CanLII, Google, and "members of the public" (paragraph 52 of PHIPA Decision 271).

[26] I rejected this argument in PHIPA Decision 271 (paragraphs 45-58). As I explained there, while I was provided with a copy of the HPARB decision the respondents referred to, neither respondent addressed my request that they support their claim by identifying

each piece of information in the memo that is public knowledge, and, for each piece of information, identifying the public source from which that information is derived. Moreover, neither respondent explained how their position accords with the IPC's broad interpretation of personal health information, including in PHIPA Decisions 17 and 82—and, particularly, the IPC's observation in PHIPA Decision 82 that personal health information may include information about an individual that is already in the public domain in the form of a public tribunal decision (paragraphs 49-53).

[27] I considered the respondents' representations on this issue before concluding in PHIPA Decision 271 that the memo at issue contains Patient X's personal health information within the meaning of *PHIPA*. In that decision, I explained why I saw no basis in *PHIPA* for a claim that Patient X's involvement in a proceeding leading to a public decision means this information no longer qualifies as personal health information protected by *PHIPA*. I also noted that unlike Andrew Curnew's memo, which identifies Patient X by name, the publicly available decisions to which the respondents had directed me (including the HPARB decision) do not name Patient X. I agreed with and adopted the finding in PHIPA Decision 82 that the availability of information in the public domain does not preclude a finding that the information is personal health information. For these and other reasons, I concluded in PHIPA Decision 271 that the memo at issue contains personal health information, and I proceeded to decide the issues arising under *PHIPA* from the allegations of unauthorized use and disclosure of that information.

[28] Andrew Curnew's submissions on this point are merely a restatement of claims he raised, and that I considered and rejected, during the review process leading to PHIPA Decision 271. But the reconsideration process is not a forum for re-argument in the hopes of a more favourable result. Andrew Curnew's dissatisfaction with my findings is not a ground for reconsideration.

[29] For all the above reasons, I find that Andrew Curnew has not established any ground for reconsideration of PHIPA Decision 271. I deny the reconsideration request.

NO RECONSIDERATION:

For the foregoing reasons, I deny the reconsideration request.

Original Signed by:

Jenny Ryu
Adjudicator

December 17, 2025