

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER F2020-21**

July 24, 2020

**WORKERS' COMPENSATION BOARD**

Case File Number 004429

**Office URL:** [www.oipc.ab.ca](http://www.oipc.ab.ca)

**Summary:** A complainant made a complaint to the Commissioner that the Workers' Compensation Board (the Public Body) had disclosed his personal information in contravention of the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) when a claims adjudicator provided his contact information to a psychologist.

The Adjudicator found that the disclosure was authorized by section 24 of the *Workers' Compensation Act* and therefore section 40(1)(e) of the FOIP Act.

**Statutes Cited:** **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1, 40, 72; *Workers' Compensation Act*, R.S.A. 2000, c. W-15, s. 24

**I. BACKGROUND**

[para 1] The Complainant complained to the Commissioner that the Public Body had contravened the FOIP Act when it disclosed his name and telephone number to a psychologist. He stated:

I did not consent to the disclosure of my personal and health information by [the WCB case manager]. WC Act should not apply as my WCB claim is dismissed before the leak and a new consent is required.

[para 2] The Commissioner agreed to conduct an inquiry and delegated her authority to conduct it to me.

## II. ISSUE

### **Did the Public Body disclose the Complainant's personal information? If yes, did it have authority to do so under sections 40(1) and 40(4) of the Act?**

[para 3] The Public Body concedes that it provided the Complainant's name and phone number to a psychologist. However, it explains that it did so because the Complainant had requested psychological counselling and the Public Body had decided to provide it.

As noted above, on June 1, 2016, the Complainant requested that the WCB provide him with psychological counselling in relation to his injury. In response to his request and the WCB's subsequent approval for psychological counselling sessions, [...] WCB Case Manager assigned to the Complainant's claim file, contacted [...], a WCB authorized Psychologist on September 6, 2016.

As the Public Body has conceded that the Complainant's contact information was disclosed to the psychologist, and as contact information is "personal information" within the terms of section 1 of the FOIP Act, the question becomes whether this disclosure was authorized under the FOIP Act.

[para 4] Section 40 of the FOIP Act prohibits a public body from disclosing personal information, except in the circumstances it authorizes. It states, in part:

*40(1) A public body may disclose personal information only*

*[...]*

*(e) for the purpose of complying with an enactment of Alberta or Canada or with a treaty, arrangement or agreement made under an enactment of Alberta or Canada [...]*

[para 5] The Public Body's stated purpose in disclosing this information was to arrange for the Complainant to obtain counselling. It points to the *Workers' Compensation Act* as authority for it to do so.

[para 6] The Complainant argues that his case was not active at the time of the disclosure and that the *Workers' Compensation Act* therefore cannot be a source of authority for the Public Body to arrange counseling or provide his personal information to a psychologist.

[para 7] From my review of the records and the parties' submissions, I find that the Public Body initially refused the Complainant's claim, but subsequently decided to accept it. The Public Body determined that the Complainant was fit to return to work; however, the Complainant subsequently appealed that decision and requested counselling. The Public Body did not accept responsibility for any psychological

injuries, but decided to make psychological counselling available to the Complainant. The Complainant subsequently refused the psychological counseling that the Public Body arranged. The Complainant's case was active in the sense that the Public Body accepted the claim and continued to adjudicate his entitlement to benefits under the *Workers' Compensation Act*.

[para 8] Section 24 of the *Workers' Compensation Act* establishes that compensation is payable to a worker who suffers a personal injury by accident. The Public Body is required to provide compensation to a worker who suffers a personal injury in the circumstances contemplated by section 24. The Complainant's claim was accepted as he met these criteria. The psychological counselling services the Public Body agreed to provide are an example of compensation that may be provided to a worker, such as the Complainant, who has suffered a personal injury by accident. While the Public Body did not accept responsibility for psychological injury, psychological counselling is a service that can be offered to assist a worker to manage injuries or return to work or maintain employment. As a result, psychological counselling services are examples of compensation that may be provided under the *Workers' Compensation Act*.

[para 9] In order for the Public Body to arrange for the counselling, it was necessary for the Public Body to provide the Complainant's contact information so that the services could be provided to him and paid for by the Public Body. As a result, I find that providing the Complainant's contact information to the psychologist was necessary for the Public Body to meet its duties under section 24 of the *Workers' Compensation Act*.

[para 10] Section 40(1)(e) of the FOIP Act authorizes a public body to disclose personal information for the purpose of complying with an enactment. Providing counselling services is an example of paying compensation under section 24 of the *Workers' Compensation Act*. The Public Body decided to provide counselling to the Complainant, who was a worker who had suffered an injury by accident and whose claim for compensation had been accepted. As it determined the Complainant to be entitled to this form of compensation, the Public Body was complying with the requirements of section 24 when it arranged for the Complainant to be provided counselling services. As a result, I find that section 40(1)(e) of the FOIP Act authorized the disclosure.

[para 11] Section 40(4) of the FOIP Act prohibits a public body from disclosing more personal information than is reasonably necessary. It states:

*40(4) A public body may disclose personal information only to the extent necessary to enable the public body to carry out the purposes described in subsections (1), (2) and (3) in a reasonable manner.*

[para 12] There is nothing before me to suggest that the Public Body disclosed more information than was necessary for meeting its purpose of arranging for psychological counselling services for the Complainant. As a result, I find that the Public Body complied with section 40(4).

### **III. ORDER**

[para 13] I make this Order under section 72 of the Act.

[para 14] I confirm that the Public Body did not fail to meet any duties to the Complainant imposed by Part 2 of the FOIP Act.

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Teresa Cunningham  
Adjudicator  
/kh