

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER F2024-04**

January 25, 2024

**WORKERS' COMPENSATION BOARD**

Case File Number 019285

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

**Summary:** An individual had a claim with the Workers' Compensation Board (the WCB) under the *Workers' Compensation Act* (the "WCA") relating to an injury. The Complainant made a complaint to this office that the WCB disclosed his medical information to the Alberta College and Association of Chiropractors (now the College of Chiropractors of Alberta, or CCOA), without authority under the *Freedom of Information and Protection of Privacy Act* (FOIP Act).

The Adjudicator found that some of the information at issue was not personal information of the Complainant. However, some of the information disclosed by the WCB to the CCOA was the Complainant's personal information; with respect to this information, the Adjudicator found that the WCB did not have authority under the FOIP Act to disclose it to the CCOA.

**Statutes Cited:** **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1, 40, 72, *Health Professions Act*, R.S.A. 2000, c. H-7, ss. 55, 62, 63, *Personal Information Protection Act*, S.A. 2003, c. P-6.5, *Workers' Compensation Act*, R.S.A. 2000, c. W-15, s. 147

**Authorities Cited:** **AB:** Orders F2004-010, F2014-32, F2019-05, F2021-29, F2022-44, P2015-02, P2021-07, Decision P2011-D-003

**Cases Cited:** *Alberta (Director of Child Welfare) v. C.H.S.*, 2005 ABQB 695 (CanLII), *College of Physicians v. Dr Ghassan Al-Naami*, 2022 ABQB 438 (CanLII)

## **I. BACKGROUND**

[para 1] The Complainant had made a claim with the Workers' Compensation Board (the WCB, or the Public Body) under the *Workers' Compensation Act* (the *WCA*) relating to an injury. The claim was not accepted by the WCB.

[para 2] The Complainant filed a complaint with the Alberta College and Association of Chiropractors (now the College of Chiropractors of Alberta, or CCOA) regarding the conduct of a chiropractor that the Complainant had seen. The Complainant has not provided much detail regarding this complaint; however, I understand that the Complainant believes that a letter provided by the chiropractor (or the chiropractor's office) to the WCB regarding the Complainant's injury was responsible for the Complainant's WCB claim being denied. This is the basis for the Complainant's complaint to the CCOA.

[para 3] The Complaints Director for the CCOA contacted the WCB and requested information regarding the Complainant's claim for WCB benefits and the chiropractor's involvement in the WCB's decision to deny benefits.

[para 4] The WCB provided the requested information. The Complainant made a complaint to this office that the WCB disclosed his personal information to the CCOA in contravention of the *Freedom of Information and Protection of Privacy Act* (FOIP Act).

[para 5] The Commissioner authorized a Senior Information and Privacy Manager to investigate and attempt to settle the matter. Following this, the Complainant requested an inquiry.

## **II. ISSUES**

[para 6] The Notice of Inquiry sent October 5, 2023 lists the issue as follows:

Did the Public Body [the WCB] disclose the Complainant's personal information in contravention of Part 2 of the Act? [In particular, was the disclosure authorized under section 40(1) and 40(4)?]

## **III. DISCUSSION OF ISSUES**

[para 7] The Complainant has the initial or "evidential" burden of proof, in that he must adduce some evidence as to why he believes his personal information was collected by the WCB in the circumstances he alleges. If the Complainant discharges this burden, then the WCB has the burden of demonstrating that its disclosure of the Complainant's personal information was in accordance with Part 2 of the FOIP Act (Order F2004-010 at paragraph 5).

[para 8] Personal information is defined in section 1(n) of the Act as follows:

*1(n) "personal information" means recorded information about an identifiable individual, including*

*(i) the individual's name, home or business address or home or business telephone number,*

*(ii) the individual's race, national or ethnic origin, colour or religious or political beliefs or associations,*

*(iii) the individual's age, sex, marital status or family status,*

*(iv) an identifying number, symbol or other particular assigned to the individual,*

*(v) the individual's fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,*

*(vi) information about the individual's health and health care history, including information about a physical or mental disability,*

*(vii) information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,*

*(viii) anyone else's opinions about the individual, and*

*(ix) the individual's personal views or opinions, except if they are about someone else;*

[para 9] I will first consider whether the information disclosed by the WCB to the CCOA Complaints Director was the Complainant's personal information.

[para 10] The WCB states that the CCOA Complaints Director contacted the WCB Claims Contact Center by email dated October 27, 2020, and advised the Contact Center Representative that information was required from the WCB for the purpose of an investigation being conducted by the CCOA. The Complaints Director was referred to the Complainant's current WCB Case Manager. The WCB provided a copy of this October 27, 2020 email. In it, the CCOA Complaints Director states that he received a complaint from the Complainant regarding a chiropractor. The Complainant had raised concerns about a letter sent to the WCB from a chiropractic clinic, signed by the office manager of that clinic, stating that two doctors from the clinic believed that the Complainant had recovered from his original injury and that the treatments he had recently received from the clinic were not related to that original injury. The CCOA Complaints Director states in his email to the WCB that the Complainant believes the information in this letter is

inaccurate, and that it is the reason the Complainant was denied WCB benefits. The Complaints Director also states in this email that he is primarily concerned with the statement that the Complainant had recovered from his original injury. The Complaints Director asked the WCB Case Manager the following question:

As part of my complaint investigation I wanted to follow up with you regarding the case and if you can provide any information on the approval, or denial, [of the Complainant's] claim and what impact the Chiropractor had on this.

[para 11] A copy of the WCB Case Manager's response to the CCOA Complaints Director was provided by the Complainant with his request for review. This response was contained in an email dated November 6, 2020, in which the Case Manager informed the Complaints Director of the following:

- the original decision regarding the Complainant's WCB claim was made in November 2019, and was not impacted by chiropractic treatment or documentation submitted. This decision was made by the Complainant's previous case manager;
- another decision was made by the WCB in April 2020 to not re-open the Complainant's WCB claim. Opinions of a specialist and family doctor had the greatest impact on that decision. This decision was made by the Complainant's previous case manager; and
- another decision was made by the WCB in July 2020 to not alter any of the previous decisions. The letter and other documentation from the chiropractor's office did not impact this decision. This decision was made by the current case manager who authored the email.

[para 12] The WCB provided copies of further email correspondence between the CCOA Complaints Director, the WCB Case Manager, and a WCB Health Care Consultant, who was also familiar with the Complainant's WCB claim history. That correspondence refers to a letter that had been provided by the Complainant to the CCOA Complaints Director that related to his WCB claim. From the email correspondence, it appears that the letter was written by the Complainant's previous WCB Case Manager.

[para 13] The Complainant states that the Complaints Director of the CCOA dismissed the Complainant's complaint to the CCOA regarding the conduct of the chiropractor, on the grounds of the information received from the WCB (specifically, that the letter from the chiropractor's office to the WCB did not have an effect on the rejection of the Complainant's WCB claim).

[para 14] Based on the submissions and other information before me, it is clear that the Complainant disclosed to the CCOA the fact that he had made a claim to the WCB, which was rejected. The Complainant had also disclosed correspondence between the chiropractor's office and the WCB, to the CCOA. The CCOA communicated this information to the WCB when asking for further information about the Complainant's claim; none of this information was disclosed by the WCB to the CCOA.

[para 15] The Complainant seems primarily concerned with the disclosure by the WCB of the effect of the letter from the chiropractor's office on the outcome of the Complainant's WCB claim.

[para 16] In Decision P2011-D-003, former Commissioner Work considered whether information in a lawyer's file about an opposing party (individual) is personal information of that individual. He concluded (at para. 30):

The point is that much or most of the latter may well not be the first Applicant's personal information even though it relates to a legal matter that involved him. An obvious example would be legal opinions given to the law firm's client as to how to deal with the litigation with the Applicant or associated legal matters. The way in which the law firm was advising its client and dealing with the legal matters may have affected the Applicants, but it was not "about" them in the sense meant by the definition of personal information in the Act. (This information would also be privileged, but the point here is that much or most of it would likely not be the Applicant's personal information within the definition of the term contained in the Act.)

[para 17] This analysis was applied in Order P2021-07, which considered whether a private-sector insurer disclosed a claimant's personal information to their employer in contravention of the *Personal Information Protection Act* (PIPA). In that case, the claimant had applied for long-term disability benefits with the insurer. In the course of processing the claimant's claim, the insurer communicated with the claimant's employer, and informed the employer that the insurer was considering sending the claimant for an independent medical examination (IME). I found (at para. 41):

In my view, the statement that the Organization was considering an IME is similarly not "about" the Complainant, and is not his personal information. The statement is better characterized as information about the Organization's process and where the claim file currently was in that process.

[para 18] While the above analyses relate to PIPA rather than the FOIP Act, they are nonetheless applicable here. This is because the difference between what is information about an identifiable individual (i.e. personal information) and information that merely relates to an individual but is not about them, is the same under both Acts. In this case, while the information about whether the chiropractor's letter was a factor in the WCB's decisions regarding the Complainant's claim clearly relates to the Complainant, it is not information *about* the Complainant. Rather, it is about the WCB's decision-making process.

[para 19] To be clear, had the CCOA not already had information about the Complainant's WCB claim, disclosing the fact that the letter from the chiropractor's office was not material to the outcome of the WCB claim would have been a disclosure of the Complainant's personal information as it would have also revealed the fact that the Complainant had a WCB claim, which is his personal information.

[para 20] While the weight put on the letter from the chiropractor's office by the WCB is not the Complainant's personal information, the WCB Case Manager also told the CCOA Complaints Director that opinions of a specialist and family doctor did factor into the WCB's decisions. Nothing before me suggests that the Complainant had told the CCOA that he had also seen a specialist or family doctor regarding his injury. Although this information is not particularly detailed, it does reveal something about the medical treatment sought by the Complainant regarding his injury. I find that this is the Complainant's personal information. Having no information to the contrary, I also find that it was disclosed by the WCB to the CCOA.

[para 21] I will now turn to whether the WCB was authorized to disclose this information to the CCOA.

[para 22] The WCB states that it was authorized to disclose the Complainant's personal information under section 147(3) of the *Workers' Compensation Act (WCA)*, and sections 40(1)(e) and (f) of the FOIP Act.

[para 23] The relevant sections of the FOIP Act, including section 40(4), state:

*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,*

*(f) for any purpose in accordance with an enactment of Alberta or Canada that authorizes or requires the disclosure,*

...

*(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 24] Section 147(3) of the *WCA* states:

*147(1) No member of the board of directors, no officer or employee of the Board and no person authorized to make an investigation under this Act shall, except as provided in this section, disclose or allow to be disclosed any information that is obtained by that person in making the investigation or that comes to that person's knowledge in connection with the investigation.*

*(2) No member of the board of directors and no officer or employee of the Board shall, except as provided in this section, disclose or allow to be disclosed information respecting a worker or the business of an employer that comes to that person's knowledge or is in that person's possession as a member, officer or employee.*

*(3) Information referred to in subsections (1) and (2), including personal information, may be disclosed to*

*(a) a person directly concerned, for a purpose the Board considers necessary to carry out the purposes of this Act, or*

*(b) an agency or department of the Government of Canada, the Government of Alberta or the government of another province or territory, for a purpose the Board considers necessary to carry out the purposes of this Act or for any purpose in accordance with an enactment of Alberta, of another province or territory of Canada or of Canada that authorizes or requires the disclosure.*

[para 25] Section 147(3) authorizes the WCB to disclose personal information described in sections 147(1) and (2) to particular persons or bodies. The WCB has not explained how the CCOA is a person or body listed in either section 147(3)(a) or (b). The WCB has not explained how the disclosure of the Complainant's personal information was necessary to carry out the purposes of the *WCA*. The *WCA* sets out how the workers' compensation scheme is to be administered in Alberta. On the face of it, the disclosure of the Complainant's personal information to the CCOA does not appear to have been necessary for a determination regarding the Complainant's WCB claim. Indeed, the Complainant's claim had been rejected (and that rejection reviewed) prior to the request for information from the CCOA. Given this, section 147(3)(a) is not applicable.

[para 26] Section 147(3)(b) permits disclosure of personal information to an agency or department of a government in Canada. The CCOA is a professional regulatory organization; professional regulatory organizations are generally private-sector organizations and not governmental bodies or agencies. For example, the College of Physicians and Surgeons, which is a governing body of health care professionals that is subject to the *Health Professions Act (HPA)* in the same manner as the CCOA, is a private-sector organization (see Order P2015-02). Nothing on the CCOA website, nor anything provided by the WCB in its submission, indicates that the CCOA is different from other professional regulatory organizations that govern health care professionals under the *HPA*, such that it could be an agency or department of a government. As the CCOA appears to be a private-sector organization, and as the WCB hasn't explained how the CCOA could fit within the bodies set out in section 147(3)(b) of the *WCA*, I find that it does not. Therefore, section 147(3)(b) of the *WCA* is not applicable.

[para 27] The WCB has also cited sections 40(1)(e) and (f) of the FOIP Act as authorizing disclosure. These provisions permit a public body to disclose personal information for the purpose of complying with an enactment, and for any purpose in accordance with an enactment.

[para 28] The WCB argues that it disclosed the Complainant's personal information in accordance with the *HPA*. Specifically, the WCB argues that the disclosure was for the purpose of an investigation conducted by the CCOA, and that section 63 of the *HPA* sets out investigative powers of the CCOA when investigating a member.

[para 29] The relevant provisions of the *HPA* state:

*55(1) Within 30 days after being given a complaint or treating information as a complaint, the complaints director must give notice to the complainant of the action taken with respect to it.*

...

*(2) The complaints director*

*(a) subject to subsections (2.1) and (2.2), may encourage the complainant and the investigated person to communicate with each other and resolve the complaint,*

*(a.1) may, with the consent of the complainant and the investigated person, attempt to resolve the complaint,*

*(b) subject to subsections (2.1) and (2.2), may make a referral to an alternative complaint resolution process under Division 2,*

*(c) may request an expert to assess and provide a written report on the subject-matter of the complaint,*

*(d) may conduct, or appoint an investigator to conduct, an investigation,*

*(e) if satisfied that the complaint is trivial or vexatious, may dismiss the complaint,*

*(f) if satisfied that there is insufficient or no evidence of unprofessional conduct, may dismiss the complaint, and*

*(g) may make a direction under section 118.*

*(2.1) Subsection (2)(a) and (b) do not apply in respect of a complaint made alleging sexual abuse or sexual misconduct against an investigated person.*

*(2.2) Subsection (2)(a), (a.1) and (b) do not apply in respect of a notice or complaint alleging the procurement or performance of female genital mutilation.*

*(3) If the complaints director dismisses the complaint, the complaints director must, within 30 days, give notice to the complainant of the dismissal and the right to apply for a review by the complaint review committee under section 68.*

...

*62(1) An investigator may investigate a complaint.*

*(2) In the course of an investigation under subsection (1), an investigator may investigate matters that are related to the conduct of the investigated person that could give rise to a finding of unprofessional conduct.*

*63(1) An investigator*

*(a) may, at any reasonable time,*

*(i) require any person to answer any relevant questions and direct the person to answer the questions under oath, and*

*(ii) require any person to give to the investigator any document, substance or thing relevant to the investigation that the person possesses or that is under the control of the person,*



*(b) may require any person to give up possession of any document described in clause (a) to allow the investigator to take it away to copy it, in which case the investigator must return it within a reasonable time of being given it but must return it no later than after a hearing is completed,*

*(c) may require any person to give up possession of any substance and thing described in clause (a) to allow the investigator to take it away to examine it and perform tests on it, in which case the investigator must return it, if appropriate and possible, within a reasonable time of being given it but must return it, if appropriate and possible, no later than after a hearing is completed, and*

*(d) subject to subsection (8), at any reasonable time enter and inspect any building where a regulated member provides professional services, but if the building contains a private dwelling place may not enter any part of the building designed to be used as and is being used as a permanent or temporary private dwelling place.*

*(2) The investigator may copy and keep copies of anything given under subsection (1).*

*(3) The complaints director, on the request of an investigator or without a request if the complaints director is the investigator, may apply to the Court of Queen's Bench for*

*(a) an order directing any person*

*(i) to produce to the investigator any documents, substances or things relevant to the investigation in the person's possession or under the person's control,*

*(ii) to give up possession of any document described in subclause (i) to allow the investigator to take it away to copy it, in which case the investigator must return it within a reasonable time after receiving it but return it no later than after a hearing is completed, or*

*(iii) to give up possession of any substance or thing described in subclause (i) to allow the investigator to take it away, examine it and perform tests on it, in which case the investigator must return it, if possible, within a reasonable time of being given it but return it, if possible, no later than after a hearing is completed;*

*(b) an order directing any person to attend before the investigator to answer any relevant questions the investigator may have relating to the investigation.*

*(4) An application for an order under subsection (3) may be made without notice if the Court is satisfied that it is proper to make the order in the circumstances.*

*(5) A person may comply with a request to give documents under subsection (1)(a)(ii) or an order under subsection (3)(a)(i) by giving copies of the documents to the investigator.*

*(6) If a person gives copies under subsection (5), the person must on the request of the investigator allow the investigator to compare the copies with the original documents at the person's place of business during regular business hours.*

*(7) An investigator who makes a comparison under subsection (6) may take away the original documents to perform tests on them and must return them within a reasonable time of taking them but must return them no later than after a hearing is completed.*

*(8) No investigator may enter a publicly funded facility, as defined in section 51, except with the consent of the person who controls or operates the publicly funded facility.*

[para 30] From the information before me, I understand that the CCOA Complaints Director informed the WCB that he was investigating a complaint made by the Complainant. I also understand that in investigating a complaint, the Complaints Director (as the investigator) has authority to require a person to answer questions, including under oath.

[para 31] However, nothing before me indicates that the CCOA Complaints Director was invoking his authority to require information under section 63 of the *HPA*. Rather, the Complaints Director merely inquired whether the WCB was able to provide “any information on the approval, or denial, [of the Complainant’s] claim and what impact the Chiropractor had on this.”

[para 32] I contrast this with a situation in which a public body disclosed personal information to an Arbitration Board in response to a Notice to Produce from that Board. Order F2022-44 states (at para. 108-110):

In this case, the Public Body argues that it was authorized to disclose the Applicant’s personal information under sections 40(1)(e) and (g). It states (initial submission, part 2, at para. 23):

As noted in para 22. above, APS was legislatively required to provide the documents to the Arbitration Board. The documents were provided in their entirety, including the applicant’s Social Insurance Number so that the Board could identify that the documents related to the correct member, personally and specifically. Such disclosure is authorized under section 40(1)(g) of the Act. In addition, Legal Services advised that in proceedings such as these, parties are under an implied undertaking to consider the relevant portions of the documents, i.e. use the documents solely for the purposes of the proceeding and for no collateral or other purpose.

The Public Body provided a signed copy of the final Notice to Produce (it is also located in the records at issue provided to the Applicant). It states that it is in relation to a grievance arbitration brought by the Applicant’s union, against the Applicant’s former employer. It is addressed to a particular Public Body employee, JW, and it requires JW to produce the pension plan “disability benefit application form and supporting medical documentation” of the Applicant. It is signed by the chair of the Board.

The Public Body states that the Arbitration Board is acting under the authority of the *Arbitration Act*, R.S.A. 2000, c. A-43. Specifically, the Public Body points to section 29 of that Act, which states in part:

*29(1) A party may serve a person with a notice requiring the person to attend and give evidence at the arbitration at the time and place named in the notice.*

*(2) The notice has the same effect as a notice in a court proceeding requiring a witness to attend at a hearing or produce documents and shall be served in the same way.*

[para 33] In support of its argument, the WCB cites *College of Physicians v. Dr Ghassan Al-Naami*, 2022 ABQB 438 (CanLII) (*College of Physicians*) where the Court set out the responsibilities of the College of Physicians and Surgeons (the College) under the *HPA* in governing the relevant professions. The WCB notes that “[a]lthough the subject of this decision is different from the focus of this inquiry, the findings are relevant as they apply to any governing body that is subject to the *HPA*” (WCB submission, at para. 18). The WCB specifically cites paragraphs 16-22 of the Court’s decision, which essentially explains the responsibilities of governing bodies constituted under the *HPA*, including the responsibility to enforce standards and ensure ongoing competence of members. The Court also cited the authorities in section 63 of the *HPA* in conducting investigations (reproduced above). The WCB has not explained how this particular case supports its position.

[para 34] The *College of Physicians* decision arose from an application made by the College to the Court seeking an Order directing the respondent physician to provide a copy of particular records. In that decision, the Court considered the College’s authority to compel production of the Crown disclosure from criminal proceedings against the respondent physician. The Court considered whether the College had authority to compel the production of documents under section 63(1) and (3) of the *HPA*, in the specific circumstances of that case.

[para 35] In this decision, the Court did not explain in detail how the College (or any other governing body subject to the *HPA*) exercises its authority to require a person to provide information under section 63(1) of the *HPA*. The only relevant discussion I can find in that decision is where the Court directed the College to rely on section 63(1) to obtain the requested documents. It said (at para. 50):

[50] That said, I conclude that the procedure taken by the College to compel production of Crown disclosure should follow the legislative scheme set out in the *Health Professions Act*. Specifically, s 63(1) gives the College the power to compel the production of documents relevant to a College investigation. In light of the public interest considerations identified in *Wagg*, the College should give notice to the Attorney General before requiring any person to produce Crown disclosure under this section. If the Attorney General does not raise any public interest concerns, the College is entitled to compel production of Crown disclosure, so long as it otherwise complies with s 63(1).

[para 36] Again, while the Court did not discuss this provision of the *HPA* in detail, the above indicates that the authority to require information under section 63(1) is undertaken via a process more formal than simply asking a person whether any relevant information *could* be provided.

[para 37] In my view, in order for the WCB to rely on sections 40(1)(e) or (f) of the FOIP Act to disclose the Complainant’s personal information to the CCOA Complaints Director, the WCB must be able to show that the Complaints Director was in fact *requiring* the information pursuant to his authority under the *HPA*. The WCB has not provided any evidence that this was the case. Therefore, I find that the WCB was not authorized to disclose the Complainant’s personal information – specifically, information

about medical treatment the Complainant had sought for his injury – to the CCOA Complaints Director.

[para 38] I want to contrast this finding with other situations in which disclosure of personal information was authorized for an investigation.

[para 39] Past Orders have discussed the disclosure of personal information in the course of an investigation or legal proceeding in which the public body is a party. Where a public body is authorized to collect, use and disclose personal information for the purpose of one of its programs or services, that authority extends to later proceedings that arise from the provision of that program or service (see *Alberta (Director of Child Welfare) v. C.H.S.*, 2005 ABQB 695 (CanLII) at para. 24, Orders F2019-05, at para. 59, F2021-29, at para. 38).

[para 40] In this case, the WCB is not a party to the investigation conducted by the CCOA. The Complainant's complaint to the CCOA related to the rejection of his WCB claim, but the CCOA was not investigating the merit of the WCB's decisions on that claim, or its actions. The WCB was not affected by the outcome of the Complainant's complaint to the CCOA.

[para 41] Similarly, I have addressed concerns raised by an applicant who had requested an inquiry by this office, that a public body disclosed his personal information without authority during the inquiry by responding to questions I had asked of that public body. The public body's answers had included information about the applicant's involvement in different legal proceedings. In Order F2014-32, I noted that section 40(1)(z) of the Act permits a public body to disclose personal information to an officer of the Legislature if the information is necessary for the performance of the officer's duties. I found that this provision applied to the public body's disclosure of the applicant's personal information to me in the inquiry as I was the authorized delegate of the Commissioner, who is defined in the Act as an "officer of the Legislature" (section 1(m)). In contrast, there is no provision in section 40(1) of the Act that specifically authorizes the disclosure of personal information to a professional regulatory organization such as the CCOA.

#### *Conclusion regarding section 40*

[para 42] I have found that the WCB did not have authority under the FOIP Act to disclose information about what medical treatment the Complainant had sought regarding his WCB claim to the CCOA Complaints Director.

[para 43] Section 40(4) of the FOIP Act limits a public body's disclosure to what is necessary to meet the purpose of the disclosure. The WCB argues (WCB submission, at para. 24):

The information disclosed to the [CCOA] Complaints Director by the previous Case Manager and the WCB Health Care Consultant was limited to the information that was necessary to provide the information [CCOA] required for the purpose of their

investigation under the Health Professions Act of Alberta. The entire claim file was not released to the [CCOA], but rather, only the specific information that was necessary for the adjudication of the complaint.

[para 44] The WCB has not explained why it was necessary to disclose information about what medical treatment the Complainant had sought – other than from the chiropractor – in relation to his injury. The CCOA Complaints Director asked whether, or to what extent, the chiropractor’s letter had an effect on the Complainant’s claim outcome. The CCOA Complaints Director did not ask what other evidence or medical opinions the WCB did rely on when considering the Complainant’s claim (presumably since the CCOA Complaints Director has no authority to assess how the WCB came to its decision regarding the Complainant’s WCB claim). It is not sufficient for the WCB to say that it disclosed far less personal information than it *could have*, without explaining how the information it *did* disclose was necessary, within the terms of section 40(4).

[para 45] In any event, as I have found that the WCB was not authorized to disclose the Complainant’s personal information to the CCOA Complaints Director, the terms of section 40(4) are also not met.

#### **IV. ORDER**

[para 46] I make this Order under section 72 of the Act.

[para 47] I find that the WCB did not have authority to disclose the Complainant’s personal information under the FOIP Act. I order the WCB not to disclose the Complainant’s personal information in contravention of the FOIP Act.

[para 48] I further order the WCB to notify me and the Complainant in writing, within 50 days of receiving a copy of this Order, that it has complied with the Order.

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Amanda Swanek  
Adjudicator