

## ALBERTA

### OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

Decision FOIP2025-D-02/HIA2025-D-01

October 14, 2025

#### SHEPHERD'S CARE FOUNDATION

Case File Numbers 017691 and 037135

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

**Summary:** The Applicant made an access request to Shepherd's Care Foundation (SCF) for copies of all records, including health records, relating to their mother, who resided at SCF. The Applicant stated that they were making the request on behalf of their mother.

SCF responded to the request under the *Freedom of Information and Protection of Privacy Act* (FOIP Act). SCF provided records, with information withheld under sections 17(1), 20, 24, and 27 of the FOIP Act.

The Applicant requested an inquiry into SCF's response. The first part of the inquiry addressed whether the Applicant had authority to act on behalf of their mother. It also addressed whether the FOIP Act or the *Health Information Act* (HIA), or both, apply to the information in the responsive records.

The Adjudicator found that the Applicant had authority to make the access request, and subsequently request a review of SCF's response, on behalf of their mother.

The Adjudicator found that much of the information in the records at issue is information subject to the FOIP Act; however, some information is health information of the Applicant under the HIA. SCF must therefore process the relevant portion of the records under the HIA.

**Statutes Cited:** AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 4, 84, *Health Information Act*, R.S.A. 2000, c. H-5, ss. 104, *Nursing Homes Act*, R.S.A. 2000, c. N-7, s. 1

**Authorities Cited:** AB: Orders F2018-75, F2019-19/H2019-01

**Cases Cited:** *Alberta Health Services v Farkas*, 2020 ABQB 281, *Covenant Health v Alberta (Information and Privacy Commissioner)*, 2014 ABQB 562

## I. BACKGROUND

[para 1] An individual and their mother (SS) made an access request to Shepherd's Care Foundation (SCF) for

1. "Copies of all of [SS]'s health records that your organization possesses. This includes any digital or physical format including, but not limited to: resident progress notes; care plans; Bedside Kardex Reports; Physiotherapy/Occupational Therapy notes; Social Worker notes; Doctor's notes; Health Care Aide notes; Nurse's notes; Pharmacist's notes; and reports/notes from outside organizations (such as from medical appointments/tests [SS] went to where the results of those were provided to your organization). This should also include any images/videos/audio recordings related to [SS's] care.

2. Copies of any information about [SS] contained outside health records (i.e. outside the scope of the above request). This includes any digital or physical format including but not limited to: emails; meeting invitations, notes and minutes; messages/notes/orders to staff; and letters."

The Applicant confirmed that they were making the request on behalf of their mother.

[para 2] SCF responded to the request under the *Freedom of Information and Protection of Privacy Act* (FOIP Act). SCF provided records, with information withheld under sections 17(1), 20, 24, and 27 of the FOIP Act.

[para 3] The Applicant requested an inquiry into the SCF's response.

[para 4] As it is unclear from the records whether the FOIP Act or the *Health Information Act* (HIA), or both, apply to the information in the responsive records, this inquiry will first determine which Act applies to the information.

[para 5] In the time following the request, issues arose regarding SS's ability to provide consent for the Applicant to act on her behalf. This inquiry will also determine whether the Applicant has authority to request a review and inquiry under the FOIP Act and/or the HIA.

## II. INFORMATION AT ISSUE

[para 6] The information at issue in this inquiry is information severed from the following pages of the records at issue:

49-50, 52, 53, 61, 62, 64, 228, 304-310, 342-344, 431, 433-436, 570, 621, 626, 631, 635, 637, 643, 666, 676, 685, 686-722, 735, 737-742, 777, 776, 780

### III. ISSUES

[para 7] The Notice of Inquiry, dated March 17, 2025, states the issues for inquiry as follows:

1. Does the Applicant have the authority to ask the Commissioner for a review under section 73(1) of the HIA and/or section 65(1) of the FOIP Act, as provided in section 104(1) of the HIA and/or section 84(1) of the FOIP Act (exercise of rights by other persons)?

*Sections 84 of the FOIP Act and 104 of the HIA authorize the Applicant to exercise the rights of his mother to make an access request under the relevant Act and request a review of SCF's response by this office, in certain circumstances. From the request for review and request for inquiry, it appears that sections 84(1)(c) or (d) of the FOIP Act and sections 104(1)(f) or (g) of the HIA may be relevant. These provisions permit a person to exercise the rights of another in the following circumstances:*

- *If an agent has been designated under a personal directive under the Personal Directives Act, by the agent if the directive so authorizes (sections 84(1)(c) of the FOIP Act, 104(1)(f) of the HIA).*

*If the Applicant is relying on these provisions, the Applicant must provide a copy of the Personal Directive, as well as documentation showing that the Personal Directive has been enacted. Under section 9 of the Personal Directives Act, R.S.A. 2000, c. P-6, a personal directive is brought into effect when the relevant individual lacks capacity with respect to the relevant matters. Documentation should include the written declaration(s) set out in section 9(2)(a) or 9(2)(b) of the Personal Directives Act, as appropriate (see attached).*

- *If a power of attorney has been granted by the individual, by the attorney if the exercise of the right or power relates to the powers and duties conferred by the power of attorney (sections 84(1)(d) of the FOIP Act, 104(1)(g) of the HIA).*

*If the Applicant is relying on these provisions, the Applicant must provide a copy of the Power of Attorney. If the Power of Attorney is brought into effect on the occurrence of a specified event, the Applicant must also provide documentation showing that the Power of Attorney is in effect as set out in sections 5(2)-(4) of the Powers of Attorney Act, R.S.A. 2000, c. P-20 (see attached).*

2. Are the records at issue subject to the FOIP Act, the HIA, or a combination of both? If the latter, which records/pages are subject to which Act?

*The parties' submissions should address:*

- *whether the SCF is a public body under the FOIP Act;*
- *whether the SCF is (also) a custodian under the HIA;*
- *whether any or all of the information in the records is "health information" as defined in the HIA;*
- *any other factors relevant to this issue.*

#### IV. DISCUSSION OF ISSUES

**1. Does the Applicant have the authority to ask the Commissioner for a review under section 73(1) of the HIA and/or section 65(1) of the FOIP Act, as provided in section 104(1) of the HIA and/or section 84(1) of the FOIP Act (exercise of rights by other persons)?**

[para 8] Section 84 of the FOIP Act and 104 of the HIA set out the circumstances in which the rights conferred on an individual under the FOIP Act and HIA, respectively, may be exercised by someone else. The relevant provisions in this case state:

*84(1) Any right or power conferred on an individual by this Act may be exercised*

...

*(c) if an agent has been designated under a personal directive under the Personal Directives Act, by the agent if the directive so authorizes,*

*(d) if a power of attorney has been granted by the individual, by the attorney if the exercise of the right or power relates to the powers and duties conferred by the power of attorney,*

...

*104(1) Any right or power conferred on an individual by this Act may be exercised*

...

*(f) if an agent has been designated under a personal directive under the Personal Directives Act, by the agent if the directive so authorizes,*

*(g) if a power of attorney has been granted by the individual, by the attorney if the exercise of the right or power relates to the powers and duties conferred by the power of attorney,*

...

[para 9] With their initial submission, the Applicant provided a copy of a power of attorney, in which the Applicant is named as SS's attorney; this power of attorney has been in effect since July 2018. This date precedes the Applicant's access request to SCF. I am satisfied that the Applicant has the authority to ask the Commissioner for a review under section 73(1) of the HIA and/or section 65(1) of the FOIP Act.

[para 10] As the Applicant is standing in the place of their mother in making the access request and subsequently requesting a review by this office, the remainder of this Decision will use the term 'Applicant' to denote the mother.

**2. Are the records at issue subject to the FOIP Act, the HIA, or a combination of both? If the latter, which records/pages are subject to which Act?**

[para 11] SCF notes that the relevant legislation has changed since the time of the Applicant's access request. At the time of the request, which was made in March 2020, SCF was a public body under the FOIP Act. At that time, the definition of "public body" in the FOIP Act included, at section 1(p)(vii), a "local public body". "Local public body" was defined at section 1(j) as including a "health care body", which was defined in 1(g) included "the operator of a nursing home as defined in the *Nursing Homes Act* other than a nursing home that is owned and operated by a regional health authority under the *Regional Health Authorities Act*. In March 2020, the *Nursing Homes Act*, R.S.A. 2000, c. N-7 defined a nursing home as a "facility for the provision of nursing home care" (at section 1(j)).

[para 12] I agree that at the time the Applicant made their access request, SCF was a public body under the FOIP Act.

[para 13] Following a similar analysis, SCF was also a custodian under the HIA at the relevant time. Section 1(f) of the HIA defined a custodian as including the operator of a nursing home as defined in the *Nursing Homes Act*; the scope of section 1(f) of the HIA at the relevant time is identical to the scope of section 1(g) of the FOIP Act at that time.

[para 14] SCF was both a public body subject to the FOIP Act and a custodian subject to the HIA at the time of the Applicant's access request.

[para 15] The definition of "personal information" in the FOIP Act includes information about an individual's health and health care history (section 1(vi)). However, section 4(1)(u) of the FOIP Act specifically excludes certain health information from the scope of that Act. At the relevant time, section 4(1)(u) of the FOIP Act stated:

*4(1) This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:*

*(u) health information as defined in the Health Information Act that is in the custody or under the control of a public body that is a custodian as defined in the Health Information Act*

[para 16] Where information is in the custody or control of a body that is both a public body under the FOIP Act and a custodian under the HIA, section 4(1)(u) of the FOIP Act determines which Act applies. If the information at issue is health information as defined in the HIA, then it is subject to the HIA and not the FOIP Act.

[para 17] Whether the information in the records at issue in this inquiry is subject to the FOIP Act or HIA will depend upon the particular context of that information.

[para 18] "Health information" is defined in section 1(1)(k) of the HIA as follows:

*(k) "health information" means one or both of the following:*

- (i) *diagnostic, treatment and care information;*
- (ii) *registration information;*

[para 19] “Diagnostic, treatment and care information” is defined in section 1(1)(i) of the HIA as follows, in part:

(i) *“diagnostic, treatment and care information” means information about any of the following:*

- (i) *the physical and mental health of an individual;*
- (ii) *a health service provided to an individual;*

...

*and includes any other information about an individual that is collected when a health service is provided to the individual, but does not include information that is not written, photographed, recorded or stored in some manner in a record;*

[para 20] Section 1(1)(m) of the HIA defines “health services”. This provision states:

*1(1) In this Act,*

*(m) “health service” means a service that is provided to an individual for any of the following purposes:*

- (i) protecting, promoting or maintaining physical and mental health;*
- (ii) preventing illness;*
- (iii) diagnosing and treating illness;*
- (iv) rehabilitation;*
- (v) caring for the health needs of the ill, disabled, injured or dying,*

*but does not include a service excluded by the regulations [...]*

[para 21] In *Covenant Health v. Alberta (Information and Privacy Commissioner)*, 2014 ABQB 562 (*Covenant Health*) the Court discussed the scope of ‘health information’ under the HIA. It noted that health information includes diagnostic, treatment and care information, which is defined in section 1(i) as including “any other information about an individual that is collected when a health service is provided to the individual...” The Court considered various situations in which information about a patient’s family members might constitute the patient’s health information. It concluded (at paras. 78-79, footnotes omitted):

These hypotheticals suggest that “other information about an individual that is collected when a health service is provided to the individual” includes, at the very least, information about the mental or physical health of others that relates to the physical and mental health of an individual or a health service provided to an individual and is collected when a health service is provided to an individual. It may affect the diagnosis or the health service provided to the patient.

There is no reason to conclude from the *Health Information Act* as a whole, including the statement of purpose in s. 2, that the information about B may not in some circumstances be A's health information. Had the Legislative Assembly wished to enact a more restricted definition of health information it could have stated that personal information about one may not be the health information of another.

[para 22] In *Alberta Health Services v Farkas*, 2020 ABQB 281 (*Alberta Health Services*), the Court considered the application of *Covenant Health* to Order F2019-19/H2019-01, which was under review by the Court. In Order F2019-19/H2019-01, the adjudicator considered whether the HIA or the FOIP Act applied to information in records relating to care provided to the applicant's mother. The responsive records included information about the mother's health, and health services provided to her; interactions between the applicant and the hospital staff; and communications involving counsel for Alberta Health Services (AHS) regarding amendments to goals of care affecting the applicant's mother. The Court made the following observations about the decision in *Covenant Health*:

[47] The adjudicator relied on *Covenant Health v Alberta (Information and Privacy Commissioner)*, 2014 ABQB 562, for the proposition that information about other individuals can be the health information of a patient if the information relates to or affects the physical or mental health of a patient. In *Covenant Health*, the daughter of two patients wanted all records regarding her own visits with her parents and the conditions that had been imposed with respect to her visitation. The evidence indicated that the daughter's conduct affected the parents' mental and physical health and the services provided to them. The adjudicator in that case concluded that the information about the daughter was not the parents' health information under the HIA and was disclosable.

[48] On judicial review, Justice Wakeling held that the definition of health information could be extended to include information about third parties where that information directly affected the physical or mental health of the patient or affected the health service provided to the patient, and where the information was collected when the custodian provided a health service to the patient. Thus, on the facts of that case, the records that included information about the daughter and the effect of her actions on the physical and mental health of her parents were the parents' health information records under the HIA. As the parents' health information and not her own health information, they were not disclosable to the daughter. It should be noted that *Covenant Health* did not deal with the question of records withheld on the basis of solicitor-client privilege.

[para 23] The Court further clarified the scope of "health information" as set out in *Covenant Health* as follows (footnotes omitted):

[51] ***Covenant Health*** stands for the proposition that any information about [Mr. F] that may have related to or directly affected the health of [his mother] and was collected while a health service was being provided to [his mother] would form part of [his mother's] health information. I have reviewed the redacted records in question and I find that they do not relate to [his mother's] physical or mental health, nor were they created while a health service was being provided to [this mother].

[52] With respect to the Advice redactions, for which I owe the adjudicator deference, I nonetheless find that it was unreasonable for her to conclude that the information about [Mr. F] satisfied the ***Covenant Health*** test of being [his mother's] health information, as the redactions relate to [Mr. F's] complaints about staff and the morphine vial incident. With respect to records 15, 25, 37, 68 and 78, however, I defer to the adjudicator's conclusion that the redacted information is health information. It was reasonable for her to conclude that these redactions satisfied the test in ***Covenant Health*** in that they related directly to [his mother's] physical and mental health or health services provided to her.

[para 24] The Court in *Alberta Health Services* also discussed the scope of health information in the HIA, in the context of solicitor-client privilege. The Court noted that “[w]hen solicitor-client privilege is at stake, the interpretation of statutes requires additional considerations. The courts have given significant instruction with respect to statutory interpretation in the context of solicitor-client privilege. I agree with AHS that statutory interpretation must respect the common law, or in this case, the principles of solicitor-client privilege” (at para. 60). The remainder of the discussion in that case may therefore be interpreted as applying only where health information and solicitor-client privilege overlap or intersect. However, the Court also made the following observation:

[73] Not only did AHS counsel not provide a health service, but she also did not collect information about [the Applicant’s mother] when a health service was provided. AHS submits, and I agree, that for information to fall within this particular category of health information, it must be about the individual more directly – it must be specifically about certain aspects of the individual and her care. While the adjudicator held that the legal advice was about [the Applicant’s mother] physical and mental health and about a health service provided to her, I agree with AHS’s submissions that this construction of the word “about” is overly broad. The redacted information was about [the Applicant] and had little to do with the health care services provided to [his mother]. Reading the words of the statute in their entire context and in their grammatical and ordinary sense harmoniously with the scheme and object of the Act, “about” in this context must be directed to the provision of actual health care services to an individual, not something that is merely related to an individual. Whether or not the legal advice given to a health care provider influences the health care provider’s decision, does not change the legal advice itself into a health service.

[para 25] This finding can be read consistently with the decision in *Covenant Health*. Information is not health information subject to the HIA for the sole reason that there is *some* connection to the information and health services provided to the individual. The relationship between the information and the health service must be more direct. In *Alberta Health Services*, complaints made by the applicant’s son about the hospital facilities generally, were not the applicant’s health information even though the reason the son was present was because the hospital was providing health services to the applicant. That relationship between the information and the health service provided to the applicant at the hospital was not sufficiently direct.

[para 26] In this case, SCF argues that records may contain both health information and information that is not health information, and the FOIP Act applies to the latter information. SCF cites both section 4(1)(u) of the FOIP Act, cited above, and section 15.1, which states:

*15.1 If a request is made under section 7(1) for access to a record that contains information to which the Health Information Act applies, the part of the request that relates to that information is deemed to be a request under section 8(1) of the Health Information Act and that Act applies as if the request had been made under section 8(1) of that Act*

[para 27] SCF argues:

19. These sections make it clear that the HIA applies only to “health information” in a record, not the record as a whole, and that FOIP applies to the remainder of the record and non-health information (see also *Covenant Health v. Alberta (Information and Privacy Commissioner)*, 2014 ABQB 562 (CanLII)).

## Analysis

[para 28] I agree with SCF's position that the records at issue contain both health information subject to the HIA, as well as information subject to the FOIP Act. The difficulty is in where to draw that line. SCF did not specify precisely what information in the records it believes is subject to HIA and what information is subject to the FOIP Act, other than where it has clearly applied an exception to access under the FOIP Act.

[para 29] In *Covenant Health*, the Court indicated two questions that must be asked to determine whether information is health information under the HIA:

1. Is there any information in the records about someone or something other than the patient that "relates to or may directly affect the physical and mental health" of the patient? If so,
2. Was this information collected when a health service was being provided to the patient?

[para 30] In this case, the Applicant resides at a facility run by SCF; SCF also provides health services to the Applicant. Some of the records at issue are progress notes recording those health services, including what was done, by whom, how the Applicant reacted, etc. It is clear from the progress notes (and emails relaying progress notes or similar) that this information in these notes relates to the Applicant's health and the health services received. This information was collected when the health service was provided to the Applicant. Following *Covenant Health*, this information is health information of the Applicant.

[para 31] SCF has applied the FOIP Act to discrete items of information and parts of sentences appearing in pages 228, 570, 666 and 676. Pages 228 and 570 are labeled with the header "Progress Notes". The authors of the relevant portions of these notes on pages 228 and 570 are health service providers, and the notes clearly relate to health services being provided to the Applicant.

[para 32] Pages 648-684 of the records at issue are comprised of dated bullet-point notes about care provided to the Applicant. While these pages do not contain the header "Progress Notes", they appear to have been created from the Progress Notes appearing at pages 88-300 of the records. I have located the entries containing the withheld information on pages 666 and 676 in the Progress Notes. These entries in the Progress Notes, which are repeated on pages 666 and 676, were created by health service providers.

[para 33] SCF argues that the information withheld on pages 666 and 676 contains health information of the Applicant as well as interactions with the Applicant's son and details of "complaints received from members of the public." SCF concludes that some of the information is subject to the HIA and some is subject to the FOIP Act. SCF did not specify precisely which information it believes is subject to which Act and why, though it applied the FOIP Act to withhold discrete items of information on these pages.

[para 34] Taken out of context of the record as a whole, whether a health service was being provided at the relevant time the relevant notes were taken is unclear. However, when read as a whole, I find that the notes were taken as part of providing health services to the Applicant.

[para 35] In making this finding, I am applying the reasoning found in past Orders of this office addressing how to separate information that is responsive to an access request from information that is

*not* responsive, when both are contained in a single record. In Order F2018-75 I discussed how public bodies should properly characterize information as non-responsive. I said (at paras. 55-58):

Separate items of information in a record cannot be viewed out of context of the record as a whole when determining if they are separate and distinct from the remaining record. For example, there may be an email written about the Applicant, but the signature line of the author, or the date of the email, or the address line, are not the applicant's personal information if separated from the context of the email. However, it would be unreasonable to characterize those items of information as not responsive to a personal information request from the Applicant for emails written about him. As stated in Order F2009-025, 'non-responsive' is not an exception from the Act to separate sentences or other items of information from the context of the record as a whole in order to withhold them.

Information must be considered in the context of the record as a whole, in determining whether it is separate and distinct from the remainder of the record. In the case of a personal information request like the Applicant's, in order to withhold portions of a record as non-responsive, the Public Body must consider whether that portion contains the Applicant's personal information *or* whether that portion provides context to the remainder of the record that *is* the Applicant's personal information.

An example of 'separate and distinct' might be distinct emails in an email chain. Another example relates to police officers' notebooks, which often contain notes on unrelated incidents on a single page. In response to an access request for police records relating to one incident, the part of the notebook page that relates to a different incident might be non-responsive. Another example is where a personal note is added to a work email, such as a note referencing a medical absence, holiday or so on. Where that personal note does not have any relation to the remainder of the email or to the access request, it might be non-responsive.

[para 36] This is a practical approach when reviewing a record that may contain both health information subject to the HIA and information subject to the FOIP Act. In my view, it is not practicable to parse sentences in a paragraph and 'assign' each sentence, or portions of a sentence, to one Act or the other. Instead, a record should be assessed to consider whether it contains separate and distinct types of information that can be 'assigned to' one Act or the other. A sentence read in isolation may not appear to relate to the provision of a health service but read in the context of the surrounding information it may be clear that it does. It is therefore important to consider the context of the information.

[para 37] In reviewing the notes on pages 228, 570, 666 and 676, all of the information in these pages is comprised of notes taken when providing a health service to the Applicant, and is her health information subject to the HIA. There is no separate and distinct information in these pages that is subject to the FOIP Act.

[para 38] SCF withheld pages 686-722 in their entirety, under section 24(1) of the FOIP Act. These pages were attached to an email at page 685 of the records, the body of which was also withheld under section 24(1). SCF describes the content of these pages as follows:

This record is an email which has a draft of the above-mentioned summary of SCF employee interactions with and about [the Applicant] and [the Applicant's son] attached to it. The email was sent by one employee of SCF to another for review before finalizing. Some of the communications detail health services provided to [the Applicant], some detail interactions with [the Applicant's son] and some detail complaints received from members of the public. As such, some of the information is covered by FOIP and some of the information is covered by the HIA.

[para 39] Pages 686-722 appear to be duplicates of pages 648-686. As stated above, pages 648-686 of the records at issue are comprised of dated bullet-point notes created from the Progress Notes appearing at pages 88-300. It is clear from the Progress Notes that the information relates to the provision of health services to the Applicant. Nothing in SCF's submission persuades me that the fact that the information in the Progress Notes was copied and pasted into a separate document alters the character of that information. I find that the information in these pages is health information subject to the HIA.

[para 40] Several records relate to complaints made by third parties about the Applicant's son. SCF argues that these records do not contain health information and are subject only to the FOIP Act. However, in some cases, the complaints directly relate to the mental or physical health and wellbeing of the Applicant. It is clear from the records that some of the complaints were forwarded to the Applicant's physician, and that the complaints were treated by SCF as relating to the Applicant's care.

[para 41] Where the complaints relate directly to the Applicant's physical or mental health and the care provided by SCF, I find that they are health information subject to the HIA. This finding applies to the information in pages 49-50, 304-305, and 306-307, and the first withheld entry on page 431, which repeats information from pages 306-307. It also applies to the information withheld on pages 343 and repeated in the bottom email on page 344, in which SCF employees discussed a matter that would have affected the care provided to the Applicant.

[para 42] In contrast, some complaints relate only to the Applicant's son, and not to the Applicant. Following *Alberta Health Services*, not all information collected by SCF in relation to the Applicant will be her health information just because SCF also provides health services to the Applicant. I find that these complaints are subject to the FOIP Act. This applies to the information in pages 308-310, and the second withheld entry on page 431, which repeats information on pages 308-310.

[para 43] Similarly, some records contain email correspondence between SCF employees about the conduct of the Applicant's son and how SCF policies may apply to the Applicant's son without also containing information about the Applicant's health or health services. The information relates to the Applicant only by virtue of their relationship to their son. I find that this information is subject to the FOIP Act. This finding applies to the information on pages 342, the first email on page 344, 621, 626, 631, 635, 637, 643, 685, 735, 736, 737-42, and 776-780.

[para 44] SCF applied the FOIP Act to withhold a draft report with recommendations created by an investigator under the *Protection for Persons in Care Act* at pages 433-436 of the records. This draft report contains information about the Applicant's health and health services provided to them. More importantly, the draft report makes recommendations about how SCF should provide health services to the Applicant in the future. This falls within the terms of health information as discussed in the court decisions cited above.

[para 45] I also note that section 11(2)(b) of the HIA creates an exception to access for "results of an investigation, a discipline proceeding, a practice review or an inspection relating to a health services provider." It is unclear what this exception could relate to, if not the type of report contained at pages 433-436. To be clear, I am not finding that this exception does apply to the record in pages 433-436; SCF has more information about this report than I do, and must first make that determination.

[para 46] As I have found that the withheld information in pages 49-50, 228, 304-305, 306-307, 343, the second email on page 344, the first withheld entry on page 431, 433-436, 570, 666, 676, and 686-722 is health information subject to the HIA, SCF is to process this information in accordance with the HIA, including the time limits set out in that Act. I will ask SCF to copy this office on its response to the Applicant under that Act. If SCF decides to withhold information under the HIA, the Applicant will be given an opportunity to object to SCF's application of any exceptions. The next part of this inquiry will address those objections, if any, as well as the issues previously raised by the Applicant relating to SCF's response under the FOIP Act.

## **V. DECISION**

[para 47] I find that the information withheld under exceptions of the FOIP Act on pages 49-50, 228, 304-305, 306-307, 343, the second email on page 344, the first withheld entry on page 431, 433-436, 570, 666, 676, and 686-722 is the Applicant's health information subject to the HIA. SCF must therefore respond to the Applicant's access request under the HIA with respect to these pages of records. SCF is to copy this office on its response to the Applicant.

[para 48] I will issue a Notice of Inquiry once SCF has responded to the Applicant as required by the HIA and the Applicant has had an opportunity to raise any objection to that response.

[e-signature of AS removed by AO]

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Amanda Swanek  
Adjudicator  
/ao