

# ALBERTA

## OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

### ORDER PIPA2025-06

December 19, 2025

#### College of Physicians & Surgeons of Alberta

Case File Number 026120

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

**Summary:** Under the *Personal Information Protection Act* (PIPA), the Applicant made an access request to the College of Physicians & Surgeons of Alberta (the Organization) for records containing his personal information. In Order P2022-02, the Organization was ordered to conduct a further search for records in response to the access request. The Applicant then sought review of whether the Organization's further search for records complied with PIPA.

The Adjudicator found that the Organization conducted an adequate further search for records.

The Adjudicator did not need to consider whether the Organization properly withheld a record located through its further search since the Organization elected to provide it to the Applicant.

**Statutes Cited: AB:** *Personal Information Protection Act*, SA 2003, c. P-6.5, ss. 2, 24(1), 24(2)(a), 24(2)(c), 27(1), 52; *Alberta Rules of Court*, Alberta Regulation 124/2010, rule 5.33.

**Authorities Cited: AB:** Orders P2006-005, P2008-001, P2009-005, P2022-02

#### I. BACKGROUND

[para 1] On December 6, 2017, under section 24(1) of the *Personal Information Protection Act* SA 2003, c. P-6.5 (PIPA), the Applicant made an access to information request to the College of Physicians & Surgeons of Alberta (the Organization). The Applicant's request sought records from five named employees, and as well as a Hearing Director.

[para 2] The wording of the access request was the same in respect of records from each individual and the Hearing Director. In each case, the Applicant sought "handwritten notes about telephone conversations," "e-mail correspondence" and,

Any emails sent/received by [name/Hearing Director] from [e-mail address associated with the name/Hearing Director] which reference me or my personal information and contain keywords [variations of the Applicant's name], [variations of the Applicant's initials] in the subject line or body of emails sent or received.

[para 3] The Applicant asked the Information and Privacy Commissioner to review the Organization's response to those access requests. That review resulted in Order P2022-02.

[para 4] In Order P2022-02, I ordered the Organization to conduct a further search for records, as follows at paragraphs 43 to 45:

I order the Organization to search for further responsive records by asking its legal counsel if it has any records that are responsive to the access request.

I order the Organization to search for e-mails in SM's e-mail boxes using the variations of the Applicant's name and initials omitted from its initial search.

I order the Organization to provide to the Applicant any further responsive information it finds upon conducting the above ordered searches, subject to exceptions to disclosure under PIPA. In the event that the Organization does not locate any further responsive information, I order it to inform the Applicant of the same.

[para 5] SM (referred to above) is one of the five employees named in the original access request.

[para 6] In order to comply with Order P2022-02, the Organization conducted a further search for records and identified one further record containing two e-mails dated February 29, 2016. (008475 Compliance Letter). The Organization did not provide the further record to the Applicant, citing sections 24(2)(a) and (c) of PIPA, and rule 5.33 of *Alberta Rules of Court*, Alberta Regulation 124/2010 (the Rules of Court).

[para 7] The Applicant then sought further review of the Organization's search for records ordered in Order P2022-02. That search is the subject of this inquiry.

## II. RECORDS AT ISSUE

[para 8] The records at issue consist of the record located in the further search.

## III. ISSUES

[para 9] The issue set out in the Notice of Inquiry is:

1. **Did the Respondent meet its obligations required by section 27(1) of the Act (duty to assist applicants)? In this case, the Commissioner will consider whether the Respondent conducted an adequate search for responsive records.**

[para 10] In the course of the inquiry, it came to light that the Organization had withheld one record under sections 24(2)(a) and (c) of PIPA, and on the basis that it is subject to Rule 5.33 of the Rules of Court Accordingly, I added the following three issues:

2. **If the Organization refused to provide access to the Applicant's personal information in its custody or control, did it do so in accordance with section 24(2) (discretionary grounds for refusal) In particular,**
  - a. **Did the Organization properly apply section 24(2)(a) (legal privilege)?**
  - b. **Did the Organization properly apply section 24(2)(c) (information collected for an investigation or legal proceeding) to certain requested records or parts thereof?**
3. **How, if at all, does Rule 5.33 of the *Alberta Rules of Court*, Alberta Regulation 124/2010 permit the Organization to withhold information in response to an access request made under the *Personal Information Protection Act*?**

## IV. DISCUSSION OF ISSUES

1. **Did the Respondent meet its obligations required by section 27(1) of the Act (duty to assist applicants)? In this case, the Commissioner will consider whether the Respondent conducted an adequate search for responsive records.**

[para 11] Section 27(1) of PIPA states,

*27(1) An organization must*

*(a) make every reasonable effort*

*(i) to assist applicants, and*

*(ii) to respond to each applicant as accurately and completely as reasonably possible,*

*and*

*(b) at the request of an applicant making a request under section 24(1)(a) provide, if it is reasonable to do so, an explanation of any term, code or abbreviation used in any record provided to the applicant or that is referred to.*

[para 12] The meaning of “reasonable” used in section 27(1) is defined in section 2 of PIPA:

*Where in this Act anything or any matter*

*(a) is described, characterized or referred to as reasonable or unreasonable, or*

*(b) is required or directed to be carried out or otherwise dealt with reasonably or in a reasonable manner,*

*the standard to be applied under this Act in determining whether the thing or matter is reasonable or unreasonable, or has been carried out or otherwise dealt with reasonably or in a reasonable manner, is what a reasonable person would consider appropriate in the circumstances.*

[para 13] An organization has an obligation to conduct a reasonable search for records in its custody or under its control that are subject to an access request under PIPA (Orders P2006-005, P2008-001). The duty to assist under section 27(1) includes conducting an adequate search for responsive records, as well as informing the applicant, in a timely manner, what steps have been taken to search for the requested records (Order P2009-005, at para. 47).

[para 14] Determining whether the duty under section 27(1) has been fulfilled is usually determined through consideration of the following points, which were relayed to the Organization in the Notice of Inquiry:

- The specific steps taken by the Respondent to identify and locate records responsive to the Applicant’s access request.
- The scope of the search conducted, such as physical sites, program areas, specific databases, off-site storage areas, etc.
- The steps taken to identify and locate all possible repositories where there may be records relevant to the access request: keyword searches, records retention and disposition schedules, etc.
- Who did the search? (Note: that person or persons is the best person(s) to provide the direct evidence).

- Why the Respondent believes no more responsive records exist other than what has been found or produced. (In answering this question the Respondent should have regard to the reasons the Applicant gave for believing more records exist than were located/provided to them, and/or the Applicant's description of the records/kinds or records they believes should have been located and provided.)
- Any other relevant information.

[para 15] The Organization explained its further search for records in an affidavit sworn by its Privacy Coordinator (the Privacy Coordinator).

[para 16] To address the order to search for further responsive records by asking its legal counsel if they had any responsive records, the Organization contacted two parties. One was its external legal counsel (External Legal Counsel) and legal counsel retained for the purposes of addressing a civil action involving the Applicant (Counsel in the Civil Action). In an e-mail to each, the Privacy Coordinator requested the recipients search for records using the keywords specified in the Applicant's access request including names, the Hearing Director, and the variations of the Applicant's name and initials. The email also specified the types of documents mentioned in the access request: handwritten notes about telephone conversations and emails.

[para 17] Counsel in the Civil Action replied to the Privacy Coordinator by e-mail. The Privacy Coordinator understood that the Executive Assistant had searched all her records related to the Applicant based upon the specified search criteria and forwarded responsive records to her.

[para 18] External Legal Counsel also responded to the Privacy Coordinator and forwarded a copy of records to her. The Privacy Coordinator understood that External Legal Counsel had searched all of his records related to the Applicant, based upon the specified search criteria.

[para 19] To address the order to search for further messages from SM's e-mail account, the Privacy Coordinator requested that SM search for records using all of the variations of the Applicant's name and initials specified in the access request. SM's executive assistant (the Executive Assistant) conducted the search on SM's behalf, and forwarded responsive records to the Privacy Coordinator.

[para 20] After receiving the responsive records from both legal counsel and SM, the Privacy Coordinator compared them against the records found through the Organization's initial search in response to the access request. The Privacy Coordinator determined that two additional records had been located.

[para 21] The Privacy Coordinator then prepared the Organization's April 14, 2022, letter to the Applicant, explaining its further search detailing that it asked its legal counsel to search for

responsive records and conducted another search of SM's email account, using all of the variants of the Applicant's name and initials specified in the access request. The letter also informed the Applicant that the two additional records were withheld under sections 24(2)(a) and (c) of PIPA and Rule 5.33 of the Rules of Court.

[para 22] The Applicant argued that the Organization must not have properly carried out the further search as ordered since he received neither any further records in response to the search, nor any evidence that it had been properly conducted.

[para 23] In light of the steps taken by the Privacy Coordinator, I am satisfied that the Organization's further search for responsive records was reasonable and satisfies its duty under section 27(1). The Privacy Coordinator explained the parameters of the access request and the terms of the further search ordered in order P2022-02 to both legal counsel, each of whom searched for records and provided records they found responsive. The same can be said of the Privacy Coordinator's efforts with respect to SM. The parameters of the required further search specific to SM were communicated, and a search for messages in SM's e-mail account was undertaken, again with responsive records being identified and provided to the Privacy Coordinator. The proper locations (legal counsel's and SM's e-mail account) were searched, using the proper keywords. I have no reason to doubt the efficacy of the search as responsive records were identified. Since the Organization has done multiple searches and now identified further responsive records, it is reasonable to conclude that no further records exist. The Applicant does not make any arguments that any particular record does or should exist. The Organization also explained its search and the results in its April 14, 2022, letter to the Applicant.

- 2. If the Organization refused to provide access to the Applicant's personal information in its custody or control, did it do so in accordance with section 24(2) (discretionary grounds for refusal) In particular,**
  - c. Did the Organization properly apply section 24(2)(a) (legal privilege)?**
  - d. Did the Organization properly apply section 24(2)(c) (information collected for an investigation or legal proceeding) to certain requested records or parts thereof?**
- 3. How, if at all, does Rule 5.33 of the *Alberta Rules of Court*, Alberta Regulation 124/2010 permit the Organization to withhold information in response to an access request made under the *Personal Information Protection Act*?**

[para 24] After receiving my letter adding the above as issues to the inquiry, the Organization asked the other entity involved in the litigation with the Applicant if it consented to disclose the

record at issue to the Applicant. The Organization was advised that the other entity had no concerns with the Organization doing so and so provided the record to the Applicant.

[para 25] Since the record has been disclosed, I need not consider these issues.

**V. ORDER**

[para 26] I make this Order under section 52 of PIPA.

[para 27] I find that the Organization conducted an adequate search for responsive records.

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John Gabriele  
Adjudicator