



February 3, 2009

Investigation prompts important reminder to health information custodians: Only courts with jurisdiction in Alberta or Canada can compel the release of health information

The Office of the Information and Privacy Commissioner issued an important reminder to health information custodians in Alberta about the release of medical information to foreign jurisdictions.

A Lethbridge resident filed a complaint with the Office of the Information and Privacy Commissioner when he discovered that his physician had disclosed his health information in response to a subpoena issued by a Montana Court. The individual questioned whether the physician had jurisdiction to release his records under the *Health Information Act* (HIA).

The individual had been involved in a motor vehicle accident in Montana and took legal action. The US-based lawyer for the other party involved in the litigation subpoenaed the physician for a sworn statement. The Doctor provided the statement along with a copy of the individual's medical chart.

The *Health Information Act* only allows custodians to respond to subpoenas from courts with jurisdiction in Alberta or Canada. There is a process to have foreign court orders and subpoenas recognized by an Alberta court, but it was not followed in this case. The Doctor had no authority to directly respond to the Montana subpoena.

Information and Privacy Commissioner, Frank Work, said, "The HIA was amended in 2006 to make sure custodians do not respond to foreign court orders without first making sure they are valid in Alberta." Mr. Work recommends that custodians seek legal advice before responding to any order from a foreign court to produce health information.

For a copy of investigation report H2009-IR-002, please visit our website at www.oipc.ab.ca.

-30 -

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public bodies are open and accountable*

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