Court File No.: _____

ONTARIO SUPERIOR COURT OF JUSTICE

DIVISIONAL COURT

IN THE MATTER OF an application for judicial review pursuant to the Judicial Review Procedure Act, R.S.O. 1990, c. J.1, and Rule 68 of the Rules of Civil Procedure, O. Reg. 194, of decisions of the Office of the Information and Privacy Commissioner of Ontario issued in IPC Files HC25-00366 and HC26 00109;	AND IN THE MATTER OF sections 2, 41(1)(a), 54, and 57(4) of the Personal Health Information Protection Act, S.O. 2004, c. 3, Sched. A;

B E T W E E N:

ALLAN DOUGLAS WILSON

Applicant

— and —

INFORMATION AND PRIVACY COMMISSIONER OF ONTARIO

and

THE OTTAWA HOSPITAL

Respondents

NOTICE OF APPLICATION FOR JUDICIAL REVIEW

TO THE RESPONDENTS AND TO THEIR SOLICITORS OF RECORD:

Court File No.: _____

TAKE NOTICE that the Applicant, Allan Douglas Wilson, will make an application to the Divisional Court of Ontario sitting at 161 Elgin St., 2nd Floor, Ottawa, Ontario, on a date to be fixed by the court, for the relief set out below.

I. RELIEF SOUGHT

The Applicant seeks the following relief:

First, an order in the nature of certiorari quashing the decision of the Information and Privacy Commissioner of Ontario issued March 31, 2026, in IPC File HC25-00366, dismissing the Applicant's complaint against The Ottawa Hospital pursuant to section 57(4) of the Personal Health Information Protection Act, S.O. 2004, c. 3, Sched. A (hereinafter "the Act" or "PHIPA").

Second, an order in the nature of certiorari quashing the denial of reconsideration issued April 22, 2026, in IPC File HC26-00109 by the same analyst, on the grounds that the denial failed to address material questions of statutory interpretation and was rendered in contravention of the principles of natural justice and procedural fairness.

Third, an order in the nature of mandamus directing the Information and Privacy Commissioner of Ontario to conduct a full investigation into the Applicant's complaint pursuant to section 57 of the Act, applying the statutory definitions set out in section 2 of the Act to the undisputed facts of the complaint.

Fourth, a declaration that section 41(1)(a) of the Act does not authorize a health information custodian to generate fabricated medical characterizations for inclusion in court pleadings where

no source document for such information exists in the records of the custodian, and that such conduct falls outside the permissive scope of the Act.

Fifth, a declaration that the definition of "disclose" in section 2 of the Act requires the information in question to be in the custody or under the control of the health information custodian at the time of its release, and that information originating outside the custodian's records cannot constitute a disclosure within the meaning of the Act.

Sixth, costs of this application, or in the alternative, such other relief as this Honourable Court deems just.

II. GROUNDS FOR THE APPLICATION

A. The Impugned Decisions and Procedural History

On October 31, 2025, the Applicant filed a health privacy complaint with the Information and Privacy Commissioner of Ontario (hereinafter "the IPC" or "the Commissioner") pursuant to the Act against The Ottawa Hospital (hereinafter "the Hospital"). The complaint was assigned IPC File HC25-00366 and designated to Analyst Cayda Rubin on January 30, 2026.

The complaint alleged that the Hospital caused to be published, by inclusion in its Statement of Defence in Ontario Superior Court of Justice Case No. CV-24-00097442-0000, three specific psychiatric diagnoses attributed to the Applicant. The Applicant demonstrated, through the submission of the entirety of the Hospital's medical records pertaining to him, that no source document containing these diagnoses exists in the Hospital's custody or control. The diagnoses were not communicated to the Applicant, do not appear in any clinical record, physician's note,

discharge summary, or document of any kind held by the Hospital, and were not consistent with any clinical impression or theory appearing in the Hospital's records.

On March 31, 2026, the IPC issued a decision letter dismissing the complaint. The IPC analyst concluded that the Hospital's disclosure of the Applicant's personal health information in the circumstances alleged appears to be permitted by section 41(1)(a) of the Act, and that the complaint should not proceed through the complaint process. This conclusion was reached without conducting the analysis required to first establish whether the information at issue constitutes "personal health information" within the meaning of the Act, and without addressing whether the statutory definition of "disclose" in section 2 of the Act is satisfied where the information has no prior existence in the records of the health information custodian.

On April 1, 2026, the Applicant filed a written Request for Reconsideration (IPC File HC26-00109) submitting that the decision contained errors of statutory interpretation warranting reconsideration by the Commissioner or a senior designate. The Applicant specifically identified two unresolved questions of law: whether the Act's definition of "disclose" can extend to information that has no existence in the custody or control of the health information custodian, and whether section 41(1)(a) of the Act, as an authorization provision governing pre-existing personal health information, can be applied to information fabricated for the purpose of inclusion in a court filing.

On April 22, 2026, the same analyst denied the reconsideration request. The analyst found that none of the established grounds for reconsideration had been made out, relying substantially on the principle articulated in Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65, that an administrative decision-maker is not required to explicitly address every argument

raised by the parties. The analyst did not conduct any analysis of the statutory definitions at issue, dismissing each substantive argument as either a re-argument of submissions already made or as arguments failing to establish a clerical or accidental error in the original decision.

On April 24, 2026, the Applicant wrote to Assistant Commissioner Stephan Luciw requesting escalation to the Commissioner on the grounds that the questions of statutory interpretation raised exceed the scope of analyst-level reconsideration review. The correspondence was forwarded to Cayda Rubin who warned the Applicant of inappropriately involving other parties in the Complaint.

B. The Legal Questions on Which This Application Rests

This application raises the following questions of law arising from the statutory interpretation of sections 2 and 41(1)(a) of the Act:

The first question is whether the definition of "disclose" in section 2 of the Act requires, as a precondition to its application, that the information made available or released be in the custody or under the control of the health information custodian at the time of release. The text of section 2 defines "disclose" as meaning "to make the information available or to release it to another health information custodian or to another person" in relation to personal health information "in the custody or under the control of a health information custodian." This definitional structure explicitly situates the act of disclosure in relation to information already in the custodian's possession. The IPC decision failed to engage with this requirement, instead proceeding on the premise that a disclosure can occur even where no source record for the information exists in the custodian's records.

The second question is whether section 41(1)(a) of the Act, which authorizes disclosure of "personal health information about an individual" for the purpose of a proceeding where "the information relates to or is a matter in issue in the proceeding," applies to medical characterizations fabricated by a custodian for the purpose of a court filing, where those characterizations have no basis in the custodian's records. Section 41(1)(a) is an authorization provision; its text presupposes the prior existence of personal health information in the custodian's records and provides authority for its release in defined circumstances. The provision does not authorize the generation of new information. The IPC decision applied section 41(1)(a) as though it also constitutes authority for the creation and publication of information originating outside the custodian's records, a reading that is incompatible with the plain text and protective purpose of the Act.

The third question is whether the IPC's conflation, in its analytical reasoning, of the Hospital's general confirmation of having provided health care with the specific publication of three fabricated psychiatric diagnoses constitutes an error of law. The decision states that "regardless of the accuracy of the three psychiatric diagnoses, the hospital confirming having provided health care to you in the Statement of Defence appears to amount to a disclosure of your PHI as contemplated by the Act." This reasoning treats two legally distinct acts as a single act and extends the statutory protection available for one to the other without analysis. The Applicant's complaint did not challenge the Hospital's confirmation of having provided health care; it challenged the specific publication of diagnoses that do not appear in any clinical record. This conflation is an error of law because it applies a legal standard to the wrong subject matter.

C. Errors of Law in the Decision of March 31, 2026

The IPC decision of March 31, 2026, discloses errors of law arising from the failure to apply the statutory definitions of the Act to the undisputed facts of the complaint. These errors are properly characterized as questions of law reviewable by this Court.

The decision proceeded on the premise that the Hospital's act of making health-related information available in a court proceeding satisfies the definition of "disclose" in section 2 of the Act without first establishing that the information was in the Hospital's custody or control. The decision acknowledged the Applicant's submission that no source document containing the three diagnosed conditions exists in the Hospital's records, and acknowledged the submission of the Applicant's own medical records as evidence on this point, but expressly declined to assess whether the specific information was in the Hospital's records, stating instead that the IPC health complaint process looks into whether the hospital's disclosure contravened the Act. This reasoning is circular: it assumes the existence of a disclosure within the meaning of the Act in order to evaluate whether that disclosure contravened the Act, without ever determining whether the statutory definition of disclosure is satisfied.

The decision further discloses an error of law in its application of section 41(1)(a) of the Act. The analyst stated that section 41(1)(a) "does not appear to specify that the personal health information must first exist in a health information custodian's records." This interpretation is inconsistent with the definitional architecture of the Act. Section 41(1)(a) operates as an exception to the general prohibition on disclosure established by section 29, which itself applies to personal health information "in the custody or under the control" of a health information custodian. A permissive disclosure provision that is itself defined by reference to custodial information cannot logically extend to information that was never held by the custodian. The analyst's interpretation, if accepted

as authoritative, would permit any health information custodian to insert into a court pleading any medical characterization it chooses and claim statutory authorization to do so under the Act, an interpretation that inverts the Act's protective purpose.

The decision also discloses a logical error in its treatment of the relationship between the accuracy of the disclosed information and the applicability of section 41(1)(a). The analyst held that the accuracy of the diagnoses is not determinative of whether a disclosure occurred. While it is arguable that the Act's disclosure provisions apply to inaccurate information that is nonetheless in a custodian's records, the same proposition cannot be extended to information that has no existence in any record whatsoever. Inaccuracy and non-existence are legally distinct conditions, and the Act's framework distinguishes between them: the former is addressed by the right to correction under section 55 of the Act, while the latter falls outside the framework of the Act entirely because there is no record in the custodian's custody to which the Act's provisions can attach. The analyst's suggestion that the Applicant seek correction of the information as an alternative remedy further demonstrates the error, because as the Applicant demonstrated in his submissions, the information does not appear in Hospital records and therefore cannot be corrected.

D. Errors of Law in the Reconsideration Decision of April 22, 2026

The reconsideration decision of April 22, 2026, discloses separate errors of law in its characterization of the Applicant's submissions and in its application of the grounds for reconsideration under the IPC's PHIPA Code of Procedure.

The reconsideration decision dismissed the Applicant's central argument regarding the statutory definition of "disclose" as a re-argument of submissions already made during the complaint

process. This characterization is legally incorrect. The Applicant's reconsideration request did not merely re-assert the same factual position advanced during the complaint; it identified a specific error of statutory interpretation in the decision, namely that the decision proceeded without applying the plain text of section 2 of the Act to the threshold question of whether a disclosure within the meaning of the Act had occurred at all. A decision-maker's failure to apply the applicable statutory definition to the facts before it is a jurisdictional error that falls within established grounds for reconsideration, not merely a disagreement about conclusions.

The reconsideration decision also erred in applying Vavilov for the proposition that a decision-maker is not required to address every argument raised by the parties, in circumstances where the argument not addressed is the central and jurisdictional question upon which the entire decision depends. The principle articulated in Vavilov does not permit a decision-maker to avoid engaging with the statutory definition that determines whether the decision-maker has authority to act. The question of whether information not in a custodian's records can constitute a "disclosure" under the Act is not a peripheral argument; it is the threshold question of subject-matter jurisdiction under the Act, and the failure to engage with it is a jurisdictional defect within the meaning of the grounds for reconsideration established by the PHIPA Code.

Further, the reconsideration decision was conducted by the same analyst who issued the original decision, in contravention of the Applicant's express request that the reconsideration be assigned to a senior designate. While the analyst cited section 27.06 of the PHIPA Code as authority for conducting the reconsideration herself, this provision applies where the original decision-maker is able to respond. The Applicant submits that a reconsideration of an alleged error of statutory interpretation by the same analyst who committed the error does not constitute the independent

review contemplated by the reconsideration process, and that the analyst's demonstrated inability to engage with the statutory definitions at issue on two successive occasions is itself evidence that the matter requires review by a senior designate.

E. The Systemic Significance of the Question of Law

The question of law arising from this application is of systemic significance beyond the Applicant's individual complaint. The IPC's interpretation of section 41(1)(a) of the Act, if accepted as authoritative, establishes a principle that a health information custodian that is a defendant in litigation may include in its Statement of Defence any medical characterization attributable to the plaintiff, however fabricated and however unsupported by clinical records, and thereby obtain the protection of the Act against any complaint to the IPC arising from that publication. This interpretation effectively permits health information custodians to use the Act's disclosure authorization provisions as a shield against accountability for the generation and publication of false health information in court proceedings, which is the precise opposite of the protection the Act was enacted to provide to individuals.

The Act's protective purpose, as expressed in its preamble and in the case law of this Court and the IPC itself, is to protect the privacy and confidentiality of personal health information while facilitating the effective delivery of health care. That purpose is not served by an interpretation of section 41(1)(a) that authorizes the weaponization of fabricated medical characterizations against individuals who have brought legitimate legal claims against health information custodians. The question of whether the Act's authorization provisions extend to information outside of custodial origin or are limited to information in the custodian's existing records is a question of statutory

interpretation that has not been addressed by this Court, and its resolution will affect the rights of complainants across the province.

F. Connection to Related Proceedings

This application is related to ongoing proceedings in Ontario Superior Court of Justice Case No. CV-24-00097442-0000 and CV-26-00102709-0000, in which the Applicant is a party and in which the conduct of the Hospital, as described in the complaint to the IPC, is at issue. The fabricated psychiatric diagnoses published in the Hospital's Statement of Defence form part of the factual record in those proceedings. The Applicant was also a party to dismissed proceedings in the Divisional Court referenced as DC-25-00003082, and the IPC's determination on the Hospital's conduct under the Act is directly relevant to the legal issues arising from those proceedings. The Applicant advises the Court of these related proceedings pursuant to his disclosure obligations and not for the purpose of consolidation at this time.

III. DOCUMENTARY BASIS

The application will be supported by the following materials:

- The IPC Decision Letter in File HC25-00366 dated March 31, 2026, issued by Analyst Cayda Rubin, dismissing the Applicant's complaint against The Ottawa Hospital.
- The Applicant's Request for Reconsideration dated April 1, 2026, filed with the Office of the Information and Privacy Commissioner of Ontario in IPC File HC26-00109.
- The IPC Reconsideration Decision Letter in File HC26-00109 dated April 22, 2026, issued by Analyst Cayda Rubin, denying reconsideration.

- The Applicant's Escalation Letter to Assistant Commissioner Stephan Luciw dated April 24, 2026.

- The Applicant's medical records submitted to the IPC demonstrating the absence of the contested diagnoses from the Hospital's records.

- The Statement of Defence of The Ottawa Hospital filed in Ontario Superior Court Case No. CV-24-00097442-0000 on or about November 8, 2024, including paragraphs 8 and 14 in which the contested diagnoses appear.

- Applicant’s Response to The Ottawa Hospital’s Statement of Defence.

- Such further and other materials as counsel or the Applicant may advise and this Court may permit.

IV. STATUTORY PROVISIONS RELIED UPON

The Applicant relies on the following statutory provisions:

Section 2 of the Personal Health Information Protection Act, S.O. 2004, c. 3, Sched. A, specifically the definitions of "disclose," "disclosure," "personal health information," "health information custodian," and "record."

Section 29 of the Act, establishing the general prohibition on disclosure of personal health information by a health information custodian.

Section 41(1)(a) of the Act, establishing the circumstance in which a health information custodian may disclose personal health information for the purpose of a proceeding in which the custodian is a party.

Section 54 of the Act, providing for appeal to the Divisional Court on a question of law from an order of the Commissioner.

Section 57(4) of the Act, conferring on the Commissioner discretion to determine whether to review a health privacy complaint.

Section 5 of the Judicial Review Procedure Act, R.S.O. 1990, c. J.1, governing the time for making an application for judicial review.

Rule 68 of the Rules of Civil Procedure, O. Reg. 194, governing applications for judicial review in Ontario.

V. GROUNDS OF REVIEW UNDER THE JUDICIAL REVIEW PROCEDURE ACT

The grounds upon which this application is advanced are as follows:

The decision of March 31, 2026, was made in breach of the duty to act fairly in that the IPC failed to apply the statutory definitions in section 2 of the Act to the threshold question of whether a disclosure within the meaning of the Act had occurred.

The decision of March 31, 2026, proceeded on an incorrect legal basis by applying section 41(1)(a) of the Act to information not in the custody or control of the Hospital, thereby misconstruing the scope of the authorization provision and acting without jurisdiction.

The decision of March 31, 2026, failed to account for and engage with material evidence submitted by the Applicant, specifically the entirety of the Hospital's medical records, which demonstrated the absence of any source document for the contested diagnoses, rendering the decision unreasonable on its face.

The reconsideration decision of April 22, 2026, was made by the same decision-maker as the original decision in contravention of the reasonable apprehension of bias that arises when a decision-maker evaluates the validity of her own prior determination on questions going to jurisdiction.

The reconsideration decision of April 22, 2026, applied an incorrect standard of review in characterizing the Applicant's jurisdictional argument as a re-argument of submissions, where the argument identified a fundamental defect and jurisdictional error in the original decision within the meaning of the established grounds for reconsideration under the PHIPA Code.

The IPC's interpretation of section 41(1)(a) of the Act, as permitting a health information custodian to generate and publish fabricated medical characterizations in court proceedings and claim statutory authorization for doing so, is incorrect as a matter of statutory interpretation and contrary to the protective purpose of the Act.

VI. TIME FOR RESPONSE

The Respondents are required to serve and file a response to this application, if any, in accordance with Rule 68 of the Rules of Civil Procedure. The impugned reconsideration decision was issued

on April 22, 2026. This application is made within thirty (30) days of that decision, being the period prescribed by section 5 of the Judicial Review Procedure Act. The Applicant reserves the right to seek an extension of time in the event the Court requires additional procedural steps prior to setting a hearing date.

VII. ADDRESS FOR SERVICE

The self-represented Applicant requests that all court communications and respondent submissions for service be directed to email address:

wilson.allan.d@gmail.com

Service by email is accepted. Documents filed in this proceeding may be served on the Applicant by email to the address above.

DATED at Cebu City, Philippines, this 1st day of May, 2026.

Allan Douglas Wilson, Self-Represented Applicant

TO:

Information and Privacy Commissioner of Ontario

Court File No.: _____

2 Bloor Street East, Suite 1400

Toronto, Ontario M4W 1A8

Attention: Legal Services

AND TO:

The Ottawa Hospital

501 Smyth Road

Ottawa, Ontario K1H 8L6

Attention: Legal Department / Privacy Lead

SCHEDULE A — QUESTIONS OF LAW

Pursuant to the requirement to identify the questions of law arising on this application, the Applicant sets out the following as the questions of law to be determined by this Court:

Question 1: Does the definition of "disclose" in section 2 of the Personal Health Information Protection Act, S.O. 2004, c. 3, Sched. A, require as a precondition that the information made available or released be in the custody or under the control of the health information custodian at the time of its release, such that information originating outside the custodian's records cannot constitute a "disclosure" within the meaning of the Act?

Question 2: Does section 41(1)(a) of the Act, which permits the disclosure of "personal health information about an individual" for the purpose of a proceeding in which the custodian is a party, apply to medical characterizations fabricated by a custodian for insertion into a court pleading where no source document for such information exists in the custodian's records, or does the

authorization provision presuppose the prior existence of personal health information in the custodian's records?

Question 3: Whether the Information and Privacy Commissioner of Ontario erred in law by applying section 41(1)(a) of the Act to information that the Commissioner found not to require investigation as to whether it existed in the Hospital's records, thereby applying a statutory authorization provision without first establishing the existence of the information that is the subject of the authorization.

Question 4: Whether the reconsideration decision of April 22, 2026, erred in law by characterizing the Applicant's statutory interpretation argument as a re-argument of submissions already made, in circumstances where the argument identified a jurisdictional error in the original decision constituting a fundamental defect in adjudication within the established grounds for reconsideration under the IPC's PHIPA Code of Procedure.

SCHEDULE B — SUMMARY OF MATERIAL FACTS

The following is a summary of the material facts that are not in dispute and that form the basis for the questions of law set out in Schedule A:

The Applicant filed a health privacy complaint with the IPC on October 31, 2025, alleging that The Ottawa Hospital caused to be published, in its Statement of Defence filed in Ontario Superior Court Case No. CV-24-00097442-0000, three specific psychiatric diagnoses attributed to the Applicant as fact.

The Applicant submitted to the IPC the entirety of The Ottawa Hospital's clinical records pertaining to him. Those records do not contain any source document for the three psychiatric diagnoses published in the Statement of Defence. No physician's note, discharge summary, clinical impression, diagnosis record, or other document held by the Hospital attributes those diagnoses to the Applicant.

The diagnoses were not communicated to the Applicant during or following any hospital visit, and no record of any such communication exists in the Hospital's files.

The IPC analyst acknowledged receipt and review of the Applicant's medical records in the decision of March 31, 2026, but expressly stated that the IPC did not assess whether the specific information was in the Hospital's records, proceeding instead on the question of whether the Hospital's disclosure contravened the Act.

The IPC analyst concluded in the decision of March 31, 2026, that section 41(1)(a) of the Act permits the Hospital's conduct, notwithstanding the acknowledged absence of any source record for the published diagnoses in the Hospital's files.

The Applicant's reconsideration request of April 1, 2026, identified the statutory interpretation questions arising from sections 2 and 41(1)(a) of the Act and sought review by a senior designate of the Commissioner's office. The reconsideration was denied by the same analyst on April 22, 2026, without independent review and without addressing the statutory interpretation questions raised.

FORM 4C

Courts of Justice Act

BACKSHEET

Wilson v Information and Privacy Commissioner of Ontario and The Ottawa Hospital.

IPC file No. HC25-00366

ONTARIO DIVISIONAL COURT (Ottawa)

PROCEEDING COMMENCED AT *Ottawa Courthouse*

Notice of Application for Judicial Review

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RCP-E 4C (September 1, 2020)