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April 1, 2026

Office of the Information and Privacy Commissioner of Ontario  
Tribunal Services Department  
2 Bloor Street East, Suite 1400  
Toronto, Ontario M4W 1A8

RE: Request for Reconsideration — IPC File HC25-00366 — Allan Wilson v. The  
Ottawa Hospital

#### A. Background and Basis for Reconsideration

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The Complainant submits this Request for Reconsideration of the decision letter issued March 31, 2026, by Analyst Cayda Rubin, in which it was determined that Complaint HC25-00366 should not proceed through the complaint process and is accordingly closed. The Complainant respectfully submits that the decision contains errors that warrant reconsideration by the Commissioner or a senior designate with authority to review analyst-level determinations under section 57(4) of the *Personal Health Information Protection Act*, S.O. 2004, c. 3, Sched. A (the "Act").

This complaint raises a questions of statutory interpretation not adequately resolved by the decision: 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 publication and dissemination is a covered action under disclosure. The question of disclosure is not an optional consideration in analysis; it is a jurisdictional question mandated by the IPC to resolve, and the Complainant respectfully requests that it be given due consideration in review.

#### B. Statutory Misapplication: Conflating Disclosable Information

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The decision states in assigning protections under the Act, 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 passage demonstrates a disqualifying analytical error. The analyst treated the Hospital's general confirmation of having provided unspecified health care as permitting the publication of three specific false

diagnoses of incurable diseases. Considering that the purported disclosure consisted of causing to be published information not actually held by an information custodian, the Act cannot reasonably be used to extend protections to this kind of disclosure on the sole basis of providing health care.

The Complaint did not challenge the Hospital's right to confirm that it provided health care to the Complainant. The Complaint challenged the publication of specific fabricated psychiatric diagnoses for which no source document exists in the Hospital's records. The analyst's unsupported conclusion does not withstand scrutiny under the Act which seeks to establish that providing health services, which may itself be properly disclosable, provides retroactive statutory protections which would otherwise not exist.

### C. Information Not in the Custodian's Custody or Control Cannot Be Disclosed Within the Meaning of the Act

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Section 2 of the Act defines "disclose" as meaning "to make the information available or to release it to another health information custodian or to another person" where the information is "in the custody or under the control" of the custodian. This definition is not satisfied in the circumstances of this Complaint. The Complainant provided the entirety of the hospital's records to the Analyst. No source document containing the three stated psychiatric diagnoses was identified. The hospital produced no clinical record, no physician's note, no discharge summary, and no document of any kind from which the diagnoses could have been drawn.

Information that does not appear in any record held by a custodian is not "in the custody or control" of that custodian within the meaning of the Act. It follows that such information cannot be "disclosed" as the Act defines that term. The analyst's decision acknowledges having reviewed the Complainant's medical records and having received the Complainant's submissions on this point, but did not address the inconsistencies warranting review. Instead, the decision proceeded on the incorrect premise that the absence of any source record was not determinative of whether a disclosure occurred. Beyond acknowledging submissions, the review fails to reference the submitted records or any analysis because the absence of relevant PHI in the Complainant's medical records did not support the fallacious ideas of disclosure advanced in decision.

The Act does not contemplate a health information custodian generating information for the purpose of placing it into a court filing. It governs the custodian's handling of information already in its possession. Where no source information exists, the Act's permissive provisions, including section 41(1)(a), are not applicable. They cannot serve as authority for the creation and publication of medical characterizations that originate outside of any clinical record despite any conflation with actual medical information.

#### D. Section 41(1)(a) Cannot Apply to Information That Does Not Exist in the Record

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Section 41(1)(a) of the Act authorizes disclosure of "personal health information about an individual" for the purpose of a proceeding "if the information relates to or is a matter in issue in the proceeding." The provision presupposes the prior existence of personal health information in the custodian's records. It is an authorization provision; it does not describe creating information or provide legal basis for misrepresenting medical theories as fact in legal filings. The text of the provision speaks to information that may be disclosed, not information that may be generated.

The decision did not address this distinction in its review. The analyst's response to the argument that fabricated information for the purpose of a legal proceeding cannot be "disclosed" under the Act was to state that the hospital's confirmation of having provided health care was itself a disclosure warranting protections. Conflating information identifying the patient receiving unspecified care with fabricated misdiagnoses does not engage with the Complainant's position that the information contested as defamatory libel cannot fall within the scope of section 41(1)(a) as a matter of statutory interpretation.

#### E. The Decision's Reasoning Falls Outside of the Act's Protective Purposes

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If the analyst's reasoning is accepted as correct, its consequence is that any health information custodian may insert any medical characterization into a court pleading, however fabricated, and claim the protection of section 41(1)(a) on the ground that a proceeding exists and healthcare was once provided. The Act's purpose is the protection of individuals from the unauthorized collection, use, and disclosure of their personal health information. That purpose is not served by an interpretation that protects the publication of invented diagnoses under the Act simply because a litigation relationship exists, actions evidenced in Complaint which contravene the Act's provisions by fraudulently claiming statutory protections.

The decision expressly states that it does not endorse the disclosure of false information by a health information custodian. However, by declining to proceed with the Complaint on the basis that section 41(1)(a) appears to permit the hospital's conduct, the effect of the decision is that the conduct is exempted from investigation. A lawful interpretation of the Hospital's conduct would be endorsable however the kind of disclosure represented in Complaint is not only unendorsable, but by extension does not fulfill the IPC's mandate under the Act by declining to investigate.

#### F. The Decision Was Rendered Without Full Analysis or Supporting Facts

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No full analysis was conducted by the analyst in either the preliminary view or the final decision letter of March 31, 2026. The Complainant respectfully submits that the questions raised concerning the scope of the Act's definitions of "disclose" and "PHI" relevant to section 41(1)(a) application to fabricated information warrants a full analysis before a final determination is issued. The decision as rendered does not demonstrate that the essential provisions of the Act were applied to the factual circumstances identified in the Complaint.

#### G. Relief Requested

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The Complainant respectfully requests that the Commissioner or a senior designate review the decision to close Complaint HC25-00366 and reconsider whether the complaint should proceed to investigation. Specifically, the Complainant requests that the review address the following questions: whether information that has no existence in the custody or control of the health information custodian can constitute PHI subject to disclosure under the Act; and whether the decision extending protections under the Act to the publication of fabricated psychiatric diagnoses on the sole justification of a confirmed healthcare relationship constitutes a correctable defect in the analysis that warrants reconsideration.

The Complainant further requests that the reconsideration process not be delegated to the same analyst who rendered the decision under review. The litigation relevant to the Complaint in DC-25-00003082 has been dismissed. As a result, any meaningful determination by the Commissioner's office regarding the Hospital's conduct under the Act will be directly relevant to the merits of future civil action the Complainant intends to pursue. The Complainant respectfully requests that the reconsideration be conducted in the context of relevance to future legal proceedings.

Respectfully submitted,



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Allan Douglas Wilson

Complainant, Self-Represented

April 1, 2026