



Information and Privacy  
Commissioner of Ontario  
Commissaire à l'information et à la  
protection de la vie privée de l'Ontario

April 22, 2026

**VIA EMAIL:** wilson.allan.d@gmail.com

**PERSONAL AND CONFIDENTIAL**

Allan Wilson  
1321 Upland Drive  
Unit 21311  
Houston, Texas 77043

Dear Allan Wilson:

**RE: IPC file HC26-00109  
Reconsideration request of decision to dismiss IPC file HC25-00366**

This letter is further to your request for reconsideration of the decision that I issued on March 31, 2026, with respect to complaint file HC25-00366. The privacy complaint was submitted pursuant to the *Personal Health Information Protection Act* (the *Act*) to the Office of the Information and Privacy Commissioner of Ontario (IPC). The complaint pertained to The Ottawa Hospital (the hospital). File HC26-00109 was opened to address your reconsideration request.

For the reasons noted below, your reconsideration request has been denied pursuant to the IPC's *Code of Procedure for Matters under the Personal Health Information Protection Act, 2004* (the PHIPA Code).

**REQUEST FOR RECONSIDERATION**

On March 31, 2026, I issued my decision with respect to file HC25-00366. I determined that the hospital's disclosure of your personal health information in the circumstances alleged appears to be permitted by section 41(1)(a) of the *Act*. As such, it was my decision that your health privacy complaint not proceed through the complaint process and, as a result, was dismissed.

On April 1, 2026, you submitted a four-page document as your written request for reconsideration. You submit that my decision contains errors warranting reconsideration by the Commissioner or a senior designate.

Specifically, you submit that your complaint raises the following questions of statutory interpretation: 1) whether the *Act*'s definition of "disclose" extends to information that has no



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existence in the custody or control of a health information custodian; and 2) whether publication and dissemination is a covered action under disclosure.

For ease of reference, I will assess the arguments you provided under separate headings in the Discussion section. However, you structure your arguments under the following headings:

- Statutory misapplication: conflating disclosable information
- Information not in the custodian's custody or control cannot be disclosed within the meaning of the *Act*
- Section 41(1)(a) cannot apply to information that does not exist in the record
- The decision's reasoning falls outside of the *Act's* protective purposes
- The decision was rendered without full analysis or supporting facts

You request that the reconsideration process not be delegated to me but that a more senior IPC staff member review my decision, address two specific questions, and reconsider whether your complaint should proceed to investigation.

## DISCUSSION

I acknowledge your request that I not be assigned to assess this matter. Please note that in accordance with section 27.06 of the PHIPA Code, I have been assigned this matter as I rendered the decision for file HC25-00366.

I have carefully considered your request for reconsideration. In doing so, I considered the grounds for reconsideration set out in the PHIPA Code and the circumstances of this file. Under the PHIPA Code, the IPC may reconsider a decision where it is established that:

- a) there is a fundamental defect in the adjudication process;
  - b) there is some other jurisdictional defect in the decision;
  - c) there is a clerical error, accidental error or omission or other similar error in the decision;
- or
- d) new facts relating to an Order come to the IPC's attention or there is a material change in circumstances relating to the Order.

The grounds for reconsideration are also codified in the IPC's *Code of Procedure for Appeals under the Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act* (the M/FIPPA Code) and are essentially the same.

In considering the first ground under the M/FIPPA Code, past IPC orders have determined that a fundamental defect in the adjudication process may include:

- failure to notify an affected party<sup>1</sup>
- failure to invite representations on the issue of invasion of privacy<sup>2</sup>, or

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<sup>1</sup> Orders M-774, R-980023, PO-2879-R, and PO-3062-R

<sup>2</sup> Orders M-774 and R-980023

- failure to allow for sur-reply representations where new issues or evidence are provided in reply.<sup>3</sup>

In considering the second ground under the M/FIPPA Code, the IPC has held that a jurisdictional defect in the decision pertains to whether the adjudicator had jurisdiction to make the decision under the *Act*.<sup>4</sup>

In considering the third ground under the M/FIPPA Code, past IPC orders have determined that errors in a decision may include:

- a misidentification of the “head”;<sup>5</sup>
- a mistake that does not reflect the adjudicator’s intent in the decision;<sup>6</sup>
- information that is subsequently discovered to be incorrect;<sup>7</sup> and
- an omission to include a reference to and instructions for the institution’s right to charge a fee<sup>8</sup>

I note that the reconsideration process is not intended to provide a forum for re-arguing or substantiating arguments made (or not made) during the inquiry.<sup>9</sup>

It appears that you are arguing that there is a clerical error, accidental error or omission or other similar error in the decision. I will now consider your arguments.

### **Argument regarding statutory misapplication: conflating disclosable information**

You argue that the following sentence from my decision demonstrates a disqualifying analytical error as I treated the hospital’s confirmation of providing health care as permitting the publication of false diagnoses:

“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*.”

You also submit that your complaint did not challenge the hospital’s right to confirm that they provided you with health care, but rather, the publication of fabricated psychiatric diagnoses.

In my decision I informed you that given the information before me, I am persuaded that the circumstances of your complaint amount to a disclosure of your personal health information under the *Act*. I also provided my reasoning for why it appears that the disclosure of your personal health information (beyond merely confirming the provision of healthcare to you) was done in accordance with section 41(1)(a) of the *Act*.

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<sup>3</sup> Orders PO-2602-R and PO-2590

<sup>4</sup> Order MO-4065-R

<sup>5</sup> Order R-990001

<sup>6</sup> Order M-938

<sup>7</sup> Orders M-938 and MO-1200-R

<sup>8</sup> Order MO-2835-R

<sup>9</sup> PHIPA Decision 25, citing Order PO-3062-R

While you may characterize the hospital's actions as a publication rather than a disclosure, or question whether a "publication" or "dissemination" fall under the *Act*'s definition of a disclosure, this argument does not present an error or mistake that does not reflect my intent in the decision.

As such, I find that your argument does not establish either a clerical error, accidental error or omission or other similar error in my decision.

**Argument that information not in the custodian's custody or control cannot be disclosed within the meaning of the *Act***

You argue that the circumstances of your complaint do not fall under the *Act*'s definition of "disclose" as the published information does not appear in any record in the custody or control of the hospital. Furthermore, the *Act* does not contemplate a health information custodian generating information for the purpose of placing it into a court filing.

You submit that my decision proceeds on the incorrect premise that the absence of any source record was not determinative of whether a disclosure occurred and fails to reference the medical records you submitted.

I note that my decision did in fact reference that you provided your medical records to support your arguments. In coming to a final decision, I reviewed the records you pointed me to, but ultimately did not see the need to reference their details in my written decision.

You argued that the circumstances of your complaint do not fall under the definition of a disclosure under the *Act* in your written submissions during the complaint process for file HC25-00366. As mentioned above, the reconsideration process is not intended to provide a forum for re-arguing arguments made during the complaint process.

Furthermore, arguments that my interpretation of the facts and resulting conclusions are incorrect do not fit within the established criteria for reconsideration.<sup>10</sup>

I find that your argument does not establish a clerical error, accidental error or omission or other similar error in my decision.

**Argument that section 41(1)(a) cannot apply to information that does not exist in the record**

You argue that section 41(1)(a) of the *Act* presupposes the prior existence of personal health information in a health information custodian's records and speaks of information that may be disclosed not generated. You submit that my decision did not address this distinction.

You presented this argument in your written submissions for complaint HC25-00366. Your complaint pertained to the hospital sharing information about you in a court document. The IPC health complaint process looks into allegations regarding the collection, use, or disclosure of

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<sup>10</sup> Order PO-2538-R, MO-3478-R

personal health information. As such I did not assess whether specific information was in the hospital's records but whether the hospital's disclosure of this information contravened the *Act*.

Additionally, section 41(1)(a) of the *Act* permits the disclosure of "personal health information about an individual" in specific circumstances. It does not appear to specify that the personal health information must first exist in a health information custodian's records.

I find that your argument does not establish a clerical error, accidental error or omission or other similar error in my decision.

### **Argument that the decision's reasoning falls outside of the *Act*'s protective purposes**

You argue that the consequence of accepting my analysis as correct is that any health information custodian may insert any "medical characterization" into a court pleading, however fabricated, and claim protection under section 41(1)(a) of the *Act*. In your view, the purpose of the *Act* is not served by this interpretation.

You also submit that the IPC declining to proceed with your complaint appears to permit the hospital's conduct and does not fulfil the IPC's mandate under the *Act*.

You presented a similar argument regarding the consequences of my analysis in your written submissions for complaint HC25-00366.

Section 57(4) of the *Act* provides the Commissioner with the discretion to determine whether to review a complaint. While you may disagree with my conclusions, after considering the information before me, it was my decision that your complaint be dismissed for the reasons I provided in my decision letter. As such, I am not persuaded that my decision in and of itself does not fulfil the IPC's mandate or purpose such that it amounts to an error warranting reconsideration.

I find that your argument does not establish a clerical error, accidental error or omission or other similar error in my decision.

### **Argument that the decision was rendered without full analysis or supporting facts**

You argue that I did not conduct a full analysis in my processing of this matter, including the final decision and that the questions raised by your complaint concerning the scope of the *Act*'s definitions of disclose and personal health information in relation to section 41(1)(a) warrant a full analysis. You also submit that my decision does not demonstrate that the "essential provisions of the *Act* were applied to the factual circumstances".

I note that, other than referring to section 41(1)(a), you do not present which other provisions of the *Act* I failed to apply to the circumstances of your complaint.

I did not find it necessary to include a full analysis of whether the hospital's actions amounted to a disclosure, as defined by the *Act*, in my decision letter. This was because, based on the information before me, the hospital making your personal health information available or releasing

it to other parties to the court proceeding (as alleged), appears to meet the *Act*'s definition of "disclosure".

In assessing whether the hospital's actions were in contravention of the *Act*, I considered all of the information I had before me, including the materials provided by yourself and the hospital. I analyzed and ultimately came to the view that the hospital's actions appeared to be justified by section 41(1)(a) of the *Act*. This analysis was included in the decision provided to you.

I am not persuaded that failing to address all of the "questions" concerning the scope of the *Act* you presented in your submissions amounts to an error warranting the matter be reconsidered.

In *Canada (Minister of Citizenship and Immigration) v. Vavilov*, the Supreme Court of Canada reaffirmed its finding in *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)* that an administrative decision maker is not required to explicitly address every argument raised by the parties. Moreover, the fact that a decision maker's reasons do not address all arguments will not, on its own, impugn the validity of those reasons or the result.<sup>11</sup>

I find that your argument does not establish a clerical error, accidental error or omission or other similar error in my decision.

### **Reconsideration on additional grounds**

While your arguments do not persuade me that there is a clerical error, accidental error or omission or other similar error in my decision, I will now evaluate whether reconsideration is warranted on other grounds.

I find that your arguments do not establish a fundamental defect in the adjudication process, a jurisdictional defect, or new facts relating to an order or that there is a material change in circumstances relating to an order.

### **CONCLUSION**

For the above reasons, it is my opinion that your request for reconsideration does not support the finding of a fundamental defect in the adjudication process, a jurisdictional defect, or any clerical error, accidental error or omission or other similar error in my decision.

After considering your submissions, I also do not find that your arguments establish new facts relating to an order or that there is a material change in circumstances relating to an order. Consequently, I deny your request for reconsideration of my decision to dismiss complaint HC25-00366.

Yours truly,

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<sup>11</sup> *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65; and *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708.

A handwritten signature in black ink, appearing to read "Cayda Rubin". The signature is fluid and cursive, with the first name "Cayda" and the last name "Rubin" clearly distinguishable.

Cayda Rubin  
Analyst