

August 28, 2008

**HAND DELIVERED**

Shafiq Qaadri, MPP  
Chair, Standing Committee on Social Policy  
99 Wellesley Street West  
Room 1405, Whitney Block  
Queen's Park  
Toronto, Ontario, M7A 1A2

**RE: Review of the *Personal Health Information Protection Act, 2004***

I would like to take this opportunity to thank the Standing Committee on Social Policy for providing my office with the opportunity to make written submissions concerning recommendations for amendments to the *Personal Health Information Protection Act, 2004* ("the *Act*").

As the person responsible for overseeing compliance with the *Act* for almost four years, I can personally attest to the fact that, for the most part, the *Act* appears to be striking the right balance between protecting the privacy of individuals with respect to their personal health information, and the equally important objective of ensuring the continued delivery of effective, efficient and timely health care, and that the *Act* does not require significant amendments.

Indeed, the amendments to the *Act* recommended by my office, which are set out in the attached document, could be described as "re-tooling," that is, addressing gaps in the *Act* that have come to light as a result our experience. The amendments aim to ensure that the proper balance continues to be struck between the right of individuals to privacy with respect to their personal health information and the delivery of effective, efficient and timely health care, to ensure that the exercise by individuals of their rights under the *Act* continues to be respected and that my office has the powers necessary to independently review, investigate and adjudicate complaints under the *Act*.

In particular, the proposed amendments are designed to guarantee the continuity of individuals' rights and the continuity of health information custodians' obligations under the *Act* upon changes in practice, such as death, bankruptcy, insolvency or the cessation of practice. They also seek to protect the rights of individuals under the *Act*, including their rights to access records of personal health information, from improper restrictions or conditions and from the imposition of fees that exceed what is reasonable in the circumstances. Further, they seek to ensure that my office has the powers necessary to conduct reviews and to investigate and adjudicate complaints under the *Act*, including the power to determine the proper application of various exemptions and exclusions from the statutory right of individuals to access their records of personal health information and to inspect, require evidence of or inquire into personal health information.



The attached chart sets out, in greater detail, the amendments to the *Act* that are being recommended by my office, including the rationale for each amendment and the draft statutory language to give effect to the amendments recommended.

Thank you once again for providing my office with the opportunity to make submissions on the *Act*. Please do not hesitate to contact me should you have any questions in relation to this submission or should you wish to discuss the recommendations further.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Ann Cavoukian', written in a cursive style.

Ann Cavoukian, Ph.D.  
Commissioner

Attach.

cc: Katch Koch, Clerk of the Standing Committee on Social Policy  
Honourable David Caplan, Minister of Health and Long-Term Care