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**PRIVACY LAW IN THE PRIVATE SECTOR**

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This indispensable guide to the law regulating privacy in the private sector in Canada provides the text and cross-referencing for current federal and provincial statutes and regulations that address private sector privacy, together with annotations, commentaries and case law references and summaries.

**Privacy law in the Private Sector: An Annotation of the legislation in Canada**

This release features

- New commentary under the British Columbia *Personal Information Protection Act*
- New commentary under the Saskatchewan *Health Information Protection Act*

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- New commentary under the Ontario *Personal Health Information Protection Act, 2004*
- New commentary under the Yukon *Health Information Privacy and Management Act*

**Highlights:**

**Saskatchewan Health Information Protection Act** — Three physicians at the Saskatchewan Health Authority (SHA) provided emergency care to certain individuals involved in a collision. The patients were then transferred and no longer in the physicians’ care. The physicians accessed the personal health information of the patients after they were transferred, based on the belief that they were in the individuals’ “circle of care.” The Commissioner noted that the circle of care concept was in direct contradiction of HIPA and failed to protect patients’ privacy. The need-to-know principle is clearly laid out in s. 23(1) and should be followed and enforced. The SHA determined that the accesses by the physicians were without a need-to-know. Thus, the Commissioner found that privacy breaches occurred when the three physicians looked up the patients’ personal health information after the patients were transferred and no longer in their care: *Saskatchewan Health Authority involving Dr. R, Dr. L, and Dr. F* (January 29, 2019), Investigation Report 180-2018, 181-2018, 226-2018

**Ontario Personal Health Information Protection Act, 2004** — The complainant was the wife of a former patient of a hospital and had concerns about a doctor’s care. She also alleged that the doctor breached her husband’s privacy when speaking to a third party about the patient’s care. The complainant brought complaints to the hospital and the College of Physicians and Surgeons of Ontario. The complainant then requested a review of the College’s decision by the Health Professionals Appeal and Review Board. Before the Board issued its decision, she filed a complaint to the Office of the Information and Privacy Commissioner. The Adjudicator determined that the circumstances of the complaint did not warrant a review under PHIPA. In particular, the complaint alleging an improper disclosure of personal health information by the doctor was appropriately dealt with through the College and Board proceedings. Thus, the Adjudicator declined to conduct a review of this matter under s. 57(4)(b). Of s. 57(4)(b), the Adjudicator explained that the thrust of the section is “to confer a discretion on this office not to proceed with a complaint where doing so would amount to a relitigation of issues appropriately addressed in another forum, or where the complaint could be more appropriately dealt with by another procedure.” She determined that considerations of judicial finality, economy and fairness to the parties were relevant to the exercise of discretion under s. 57(4)(b): *PHIPA Decision 80*, (January 10, 2019), Complaint HC16-87