KING'S BENCH FOR SASKATCHEWAN

Citation: **2026 SKKB 85**

Date: **2026 04 22**
File No.: KBG-WB-00051-2024
Judicial Centre: Weyburn

BETWEEN:

RANDOLPH DEAN SCHILLER

APPLICANT

- and -

GOVERNMENT OF SASKATCHEWAN (MINISTRY OF HEALTH)

RESPONDENT

Appearing:

Randolph Schiller	self-represented applicant
Laura Mazenc	for the respondent

FIAT — KLATT J.
April 22, 2026

INTRODUCTION

[1] The applicant/appellant [Mr. Schiller] seeks information relating to the adverse effects of the COVID-19 vaccine that the Ministry of Health [Ministry] started to compile in about 2021. The information came directly from persons who reported certain adverse effects which the Ministry then collated into a spreadsheet [Spreadsheet].

[2] Initially, Mr. Schiller requested access to the Spreadsheet that had been prepared by the Ministry. The Ministry disclosed certain columns of information on the

Spreadsheet but refused to disclose others. Mr. Schiller applied to the Office of the Information and Privacy Commissioner [Commissioner] for a review of the Ministry's decision. The Commissioner recommended disclosure of some columns but the Ministry continued to refuse to disclose others. Mr. Schiller appeals the Ministry's decision under ss. 57(1) of *The Freedom of Information and Protection of Privacy Act*, SS 1990-91, c F-22.01 [*FOIPPA*].

[3] Mr. Schiller also seeks certain information that he did not know was in existence at the time he filed his appeal. In an earlier ruling, *Schiller v Government of Saskatchewan (Ministry of Health)* (28 May 2025), Weyburn KBG-WB-00051-2024 (SKKB) decided that Mr. Schiller's appeal could include his request to obtain that information.

[4] The Ministry resists the appeal claiming that the records Mr. Schiller seeks constitute personal health information which cannot be disclosed under *The Health Information Protection Act*, SS 1999, c H-0.021 [*HIPA*].

[5] I have concluded that most of the records constitute personal health information under *HIPA* and Mr. Schiller cannot bring himself within any of the stated exemptions in *HIPA*. For information that is personal information, within the meaning of *FOIPPA*, I have concluded it cannot be severed from the rest of the records as it poses an unacceptable risk of identifying the persons to which the rest of the personal health information relates.

BACKGROUND

[6] The Saskatchewan Health Authority [SHA], like the other health authorities across Canada, started to collect information from persons who reported experiencing certain adverse effects from the COVID-19 vaccines. The information

was collected by health care practitioners on "Adverse Events Following Immunization" [AEFI] forms.

[7] Ms. Morag Granger is the Senior Public Health Nursing Consultant with the Ministry, responsible for the development and oversight of the Ministry's immunizations programs. In her affidavit, she deposed that her office received the AEFI forms from the SHA, Indigenous Services Canada and the Northern Inter-Tribal Health Authority. Her staff was responsible for reviewing the forms to ensure completeness and track adverse events by entering the information contained on the forms onto the Spreadsheet.

[8] Ms. Granger explained that there are 18 columns on the Spreadsheet. The column numbers and corresponding descriptors are:

(1) The unique identifier number and the former Health region that would be associated with that number on the AEFI form.

(2) The patient's initials.

(3) The patient's gender.

(4) The patient's age.

(5) The type of health care practitioner who provided the immunization and reported on it (*i.e.*, a registered nurse, doctor).

(6) The date the vaccine was given.

(7) The lot # of the vaccine.

(8) A "yes/no" as to whether the adverse reaction was reportable.

(9) A "yes/no" as to whether the adverse reaction was serious.

(10) A “yes/no” as to whether the adverse reaction was unusual.

(11) A “yes/no” as to whether the adverse reaction was expected.

(12) A description of the time of the onset of the adverse reaction after receiving the vaccine.

(13) The duration of the adverse reaction.

(14) A description of the adverse reaction.

(15) The treatment received, if any, for the adverse reaction.

(16) The patient’s outcome after the adverse reaction, if known.

(17) Any recommendation made by the medical health officer.

(18) Any additional notes that may relate to the administration of the vaccine (*i.e.*, whether there was a positive testing for COVID-19 prior to the vaccination, other vaccines administered at the same time as the COVID-19 vaccine, whether the vaccination was a second or subsequent dose).

[9] Veronica Hawley, employed by the Ministry as the Senior Public Health Nursing Consultant, appended a 2025 version of a blank AEFI form to her affidavit filed on December 2, 2025. The AEFI form contains more comprehensive information than that contained on the Spreadsheet.

[10] In her affidavit, Ms. Granger described in detail the type of information collected on the AEFI forms:

(1) a unique episode number, as well as the identifier for the associated health region;

(2) the patient's name, date of birth, age, gender, health card number, address and phone number;

(3) the source of the information (*i.e.*, the patient, caregiver or other person providing the report);

(4) the province or territory in which the immunization occurred;

(5) the date of the immunization;

(6) whether the patient was pregnant or breastfeeding at the time of immunization;

(7) the patient's medical history prior to the onset of the adverse effect including details of medications (prescription and over the counter) and herbal supplements, known medical conditions, acute illnesses or injuries, allergies, and previous positive COVID-19 test results; and

(8) details of any previous adverse reactions to COVID-19 vaccines, their impact on the patient, the outcome and the treatment and level of care received for the adverse reaction.

[11] Although Mr. Schiller takes issue with the 2025 version of the AEFI form, saying that it is "significantly different" than the one used in 2021, I do not have any evidence that the versions are significantly different.

[12] In her affidavit, Ms. Granger deposed that the purpose of the AEFI forms was to track adverse reactions flowing from immunization and submit the forms to the Canada Adverse Event Following Immunization Surveillance System, which is a part of the Public Health Agency of Canada. The focus was, and remained, on the surveillance of adverse effects that would alert officials to the need for more in-depth

investigation. Ms. Granger stated that the overall goal of this monitoring was to ensure the continued safety of the vaccines.

[13] I have no reason to doubt that either the goal of such record-keeping or the nature of the information collected changed in any material way during the time in question.

[14] Initially, Mr. Schiller had requested disclosure of the entire Spreadsheet that had been prepared by the Ministry. The Ministry disclosed certain columns of information on the Spreadsheet but refused to disclose others, namely columns 1-4 and 6-18 of the Spreadsheet.

[15] Mr. Schiller applied to the Commissioner for a review of the Ministry's decision.

[16] The Commissioner released a report recommending that the Ministry continue to withhold columns 2-4 of the Spreadsheet but disclose the remaining columns of information to Mr. Schiller. The Ministry redacted columns 1-4 on the Spreadsheet but, ultimately, agreed to disclose the information contained in columns 8-18, subject to redactions for gender identification.

[17] Since he filed his application to appeal the Ministry's decision, Mr. Schiller learned from Ms. Granger's affidavit that information on the Spreadsheet was collated from the AEFI forms. Mr. Schiller now seeks disclosure of those forms for a two-year period from December 2021 to December 2023.

[18] As I understand Mr. Schiller's argument, he says the information he seeks is statistical information and the restrictions on accessing personal health information in *HIPA* do not apply to statistical information. Nor do the restrictions apply, he says, to personal health information that has been "de-identified" by changing the data to ensure there is no possibility of identification. He says to the extent that the information

is personal health information to which he is not entitled under *HIPA*, the Ministry should be ordered to either de-identify the information or create new columns on the Spreadsheet that contain the additional information he seeks.

[19] Mr. Schiller says he needs the AEFI forms to confirm the accuracy of the Spreadsheet. The thrust of Mr. Schiller's oral submissions was grounded in a distrust of the dissemination of information relating to the COVID-19 vaccines by the Ministry and the government as a whole.

[20] The Ministry's position is that the AEFI forms in their entirety are comprised of personal health information and, therefore, *HIPA* governs, not *FOIPPA*. Thus, Mr. Schiller cannot gain access to those forms and nor does he fall within one of the stated exceptions contained in *HIPA*.

[21] The Ministry also asserts that there is no duty to de-identify the personal health information in the AEFI forms or create new documents to satisfy Mr. Schiller's request.

The Legislative Framework

[22] There are potentially two statutes that are applicable when considering personal information or personal health information: *HIPA* and *FOIPPA*. Both statutes could be engaged when dealing with the same record if the record contains both personal health information and personal information.

[23] At the outset, it is necessary to determine whether the records in question contain personal health information as it is defined in ss. 2(m) of *HIPA*. Personal health information is defined in ss. 2(m) as:

> 2(m) **"personal health information"** means, with respect to an individual, whether living or deceased:

> (i) information with respect to the physical or mental health of the individual;
>
> (ii) information with respect to any health service provided to the individual;
>
> (iii) information with respect to the donation by the individual of any body part or any bodily substance of the individual or information derived from the testing or examination of a body part or bodily substance of the individual;
>
> (iv) information that is collected:
>
> > (A) in the course of providing health services to the individual; or
> >
> > (B) incidentally to the provision of health services to the individual; or
>
> (v) registration information

[24] Subsection 2(d) of *HIPA* defines "de-identified personal health information" as:

> 2(d) **"de-identified personal health information"** means personal health information from which any information that may reasonably be expected to identify an individual has been removed.

[25] Subsection 3(2) of *HIPA*, provides:

> 3(2) This Act does not apply to:
>
> (a) statistical information or de-identified personal health information that cannot reasonably be expected, either by itself or when combined with other information available to the person who receives it, to enable the subject individuals to be identified;
>
> (b) personal health information about an individual who has been dead for more than 30 years; or
>
> (c) records that are more than 120 years old.

[26] Section 4 of *HIPA* stipulates that *FOIPPA* does not apply to personal health information in the control or custody of a trustee. Thus, if the information constitutes personal health information as defined in ss. 2(m) of *HIPA*, then the provisions of *HIPA* apply. If the information in the record does not constitute personal health information, the provisions of *FOIPPA* apply.

[27] Subsection 24(1.1) of *FOIPPA* specifically excludes personal health information as it is defined in *HIPA* from the definition of "personal information".

[28] *HIPA* permits people to access their own personal health records but does not provide a general right of access. Section 5 of *HIPA* provides that a trustee who has custody or control of personal health information (*i.e.*, a government institution or a provincial health authority) is entitled to use or disclose personal health information only with the consent of the subject individual or in accordance with stated exceptions contained in *HIPA*.

[29] Section 23 of *HIPA* provides a general statement on the limits on collection, use and disclosure of personal health information. It reads:

> 23(1) A trustee shall collect, use or disclose only the personal health information that is reasonably necessary for the purpose for which it is being collected, used or disclosed.
>
> (2) A trustee must establish policies and procedures to restrict access by the trustee's employees to an individual's personal health information that is not required by the employee to carry out the purpose for which the information was collected or to carry out a purpose authorized pursuant to this Act.
>
> (3) **Repealed**. 2003, c 25, s 13.
>
> (4) A trustee must, where practicable, use or disclose only de-identified personal health information if it will serve the purpose.

[30] Subsection 27(4) of *HIPA* permits the trustee to disclose personal health information without the consent of the subject individual. Subsection 27(4) reads, in part:

> 27(4) A trustee may disclose personal health information in the custody or control of the trustee without the consent of the subject individual in the following cases:
>
> (a) where the trustee believes, on reasonable grounds, that the disclosure will avoid or minimize a danger to the health or safety of any person;
>
> (b) where, in the opinion of the trustee, disclosure is necessary for monitoring, preventing or revealing fraudulent, abusive or dangerous use of publicly funded health services;
>
> …

[31] In addition, s. 29 of *HIPA* provides a trustee or designated archive with the authority to use or disclose personal health information for research purposes with the express consent of the individual to whom the health information relates only if certain prescribed criteria are met.

[32] Under *HIPA*, where a person seeks access to their own personal health information, the trustee must consider severance if it refuses access. Section 38 provides:

> 38(1) Subject to subsection (2), a trustee may refuse to grant an applicant access to his or her personal health information if:
>
> …
>
> (2) Where a record contains information to which an applicant is refused access, the trustee shall grant access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused access.

[33] Exclusive of personal health information that falls under *HIPA*, s. 5 of *FOIPPA* provides a general right of access to every person for records in the possession

or under the control of a government institution. *FOIPPA* sets out a complete scheme for applications for access to such records.

[34] Section 5.1 of *FOIPPA* imposes a duty on a government institution to assist an applicant who seeks access:

> 5.1(1) Subject to this Act and the regulations, a government institution shall respond to a written request for access openly, accurately and completely.
>
> (2) On the request of an applicant, the government institution shall:
>
> (a) provide an explanation of any term, code or abbreviation used in the information; or
>
> (b) if the government institution is unable to provide an explanation in accordance with clause (a), endeavour to refer the applicant to a government institution that is able to provide an explanation.

[35] In furtherance of *FOIPPA*'s goal of access to information, s. 8 of *FOIPPA* provides:

> 8 Where a record contains information to which an applicant is refused access, the head shall give access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused access.

ISSUES

[36] The issues can be framed as follows:

(a) Do the AEFI forms constitute personal health information as defined in s. 2 of *HIPA*?

(b) If the answer is "yes", can Mr. Schiller rely on any provisions in *HIPA* to gain access to the information?

(c) If the answer is "no", can Mr. Schiller rely on the provisions of *FOIPPA* to gain access to the information that does not constitute personal health information?

DISCUSSION

[37] I begin with a comment on the fundamental difference between the goals and underlying policy objectives of *HIPA* and *FOIPPA*.

[38] *HIPA* contains a broad set of principles that apply, and relate to, the rights of persons to access their own personal health information: *Saskatchewan Government Insurance v Giesbrecht*, 2025 SKCA 10 at para 76. The overarching goal is the protection of personal health information and the trustees who hold that information have a duty to the persons to whom the information relates. The importance of that duty and of privacy protection is reflected in the statement of principles set out in the preamble to *HIPA*.

[39] By contrast, *FOIPPA* governs the public's right of access to records, excluding personal health information, in the possession of a government institution. The goal is access, subject to stated exemptions.

[40] In this matter, Mr. Schiller has referred to both *HIPA* and *FOIPPA*, often using them interchangeably. I will begin with his reliance on *HIPA*.

(a) Do the AEFI forms constitute personal health information as defined in s. 2 of *HIPA*

[41] Mr. Schiller relies on s. 35 of *HIPA* in saying that the Ministry has a duty to assist. Mr. Schiller says the Ministry should be ordered to de-identify the AEFI forms and provide them to him. Alternatively, he suggests that the Court can order the

Ministry to create a new document by adding columns of the information he seeks to the Spreadsheet.

[42] Mr. Schiller also asserts that if the personal health information is de-identified, then *HIPA* does not apply. He buttresses his argument by saying that the information would be reduced essentially to raw data or become statistical in nature.

[43] The Ministry argues that as a trustee of personal health information under *HIPA*, it is not entitled to disclose or provide access to AEFI forms because they contain personal health information and none of the exemptions contained in *HIPA* apply in these circumstances. More fundamentally, the Ministry argues that because Mr. Schiller is not seeking his own personal health information, he does not have a right or avenue of access to the forms under *HIPA*. The Ministry also argues that there is no statutory obligation under *HIPA* to attempt to de-identify information.

[44] The Ministry says that even if there is some information that did not constitute personal health information as defined in *HIPA*, there is no statutory obligation to sever the records and disclose the remaining information.

[45] There is no doubt that the AEFI forms contain a significant amount of personal health information. Each AEFI form is unique to each individual person, having been completed during the treatment of that person. The forms contain information concerning the person's health, the health service provided to them, their medical history and other information collected in the course of the provision of health services to them. The adverse reactions were documented as part of providing medical services to the patient.

[46] The AEFI forms also contain information as to whether the patient was pregnant or breastfeeding at the time of immunization, the patient's general immunization history, medical conditions, medications and other illnesses or injuries.

Details of those information items were not included on the Spreadsheet. Details of any adverse reactions were included on the Spreadsheet and provided to Mr. Schiller.

[47] In my view, the information on the AEFI forms that was not included on the Spreadsheet constitutes personal health information as it is defined in ss. 2(1)(m) of *HIPA*.

(b) Can Mr. Schiller rely on any provisions in *HIPA* to gain access to the information that constitutes personal health information as defined in s. 2 of *HIPA*?

[48] Having decided that the AEFI constitute personal health information, the question then becomes whether Mr. Schiller can rely on s. 3 of *HIPA* or invoke any of the exemptions contained in *HIPA* to justify disclosure of personal health information to him. In my view, he cannot.

[49] The rules respecting disclosure of personal health information that are potentially relevant in this case are found in ss. 23, 27, and 29 of *HIPA*. Because Mr. Schiller seeks personal health information relating not to himself but to other persons, *HIPA* does not provide an automatic right of access to the personal health information he requests. Thus, he must establish he has a right to access the personal health information of other people in accordance with the provisions of *HIPA*.

[50] The AEFI forms do not contain mere raw data or statistical information. Nor do they contain de-identified personal health information. The forms contain various personal health information of the individual patients as well as personal information that identifies the patient.

[51] Although Mr. Schiller referred to the disclosure of personal health information for research purposes, I did not understand him to be seriously arguing that he could rely on s. 29 of *HIPA* in obtaining the personal health information of others.

Section 29 requires that the research project be one that has been "approved by a research ethics committee approved by the Minister". Mr. Schiller provided no evidence that was the case here. To the extent he argues he was collecting the information for research purposes, he has not provided evidence that he can fall within the exemption provided for in s. 29.

[52] Section 27 of *HIPA* does not assist Mr. Schiller either. Subsection 27(4) provides that a trustee may disclose personal health information in the custody or control of the trustee without the consent of the subject individual where the trustee believes, on reasonable grounds, that the disclosure will avoid or minimize a danger to the health or safety of any person. The provision is permissive, enabling the trustee to disclose personal health information. It does not automatically entitle Mr. Schiller or anyone else to access the personal health information of others.

[53] Mr. Schiller argues that the Ministry is failing to comply with their duty to assist under s. 35 of *HIPA*. Once again, s. 35 of *HIPA* does not assist Mr. Schiller because it applies only to those persons who are seeking access to their own personal health information.

[54] Section 8 of *FOIPPA* mandates a head to provide access to as much of a record as can reasonably be severed without disclosing the information to which an applicant is refused access. There is no corresponding duty under *HIPA* to sever except under s. 38 which requires a trustee to sever those parts of a health record that are exempt from disclosure so the remainder can be disclosed to the person applying for access to their own health record. Thus, Mr. Schiller cannot rely on s. 38 to assert that the Ministry must sever the portions that are non-disclosable.

[55] Mr. Schiller also argues that the Ministry should be required to de-identify the AEFI forms and disclose them to him. If the forms were de-identified, they would be exempt from the application of *HIPA* by virtue of s. 3 of *HIPA*.

[56] The office of the Information and Privacy Commissioner of Ontario prepared *De-Identification Guidelines for Structured Data: Updated and Expanded* (October 2025) [*Ontario Guidelines*] which were appended to Ms. Hawley's affidavit. The *Ontario Guidelines* are not necessarily binding but they do provide a detailed explanation of what is involved in the process of de-identification and how risky and complicated the process is.

[57] De-identification is the removal of information, or manipulation of the information that identifies a person or could be used with other information to identify a person. The *Ontario Guidelines* indicate that while it is possible to perform de-identification manually, there are many software tools that the information custodian (or the trustee, as in Saskatchewan) can use to begin the process. But whether the trustee or custodian performs the process manually or through software tools or analytics, the risk of identification or re-identification is not reduced to zero.

[58] There is no duty on the Ministry to de-identify the AEFI forms to facilitate Mr. Schiller's access to them. Even if there was, de-identification in this case carries significant risk that the person to whom the information relates could be identified. In any event, the AEFI forms contain such a high degree of detailed medical and personal health information that it is difficult to see how de-identification could be accomplished.

[59] Mr. Schiller urged me to compel the Ministry to add columns to the Spreadsheet to contain more information to contain information such as gender, race, age, prior health concerns of a patient and whether a patient was lactating. In his view, this would be a simple task. I decline to make any such order. There is no duty on the Ministry to create a new record that includes all the information Mr. Schiller seeks.

(c) Can Mr. Schiller rely on the provisions of *FOIPPA* to gain access to the information that does not constitute personal health information?

[60] Having determined that there are no applicable exemptions under *HIPA* for the disclosure of the AEFI forms as they currently exist, I turn to whether Mr. Schiller can gain access to them under *FOIPPA.*

[61] Apart from the personal health information that is not disclosable, the AEFI forms also contain biographical information: name, age, gender and race. Because such information is not personal health information, those identifiers potentially fall under the *FOIPPA* regime.

[62] Under s. 8 of *FOIPPA*, the Ministry is obligated to give as much access to the record as can "reasonably be severed" from information to which an applicant is refused access.

[63] The *Ontario Guidelines* recommend that the removal of indirect identifiers such as gender, age range, medical procedures, diagnoses, and event dates (see p. 8 of Exhibit "C" to Ms. Hawley's affidavit) when undertaking the task of de-identification. The Ministry has an overarching obligation as a trustee under *HIPA* to refuse to disclose the information on the basis that there is a risk of identification. In other words, the Ministry as trustee is mandated to ensure that anything that is sought cannot, either in isolation or in addition to other information already disclosed, increase the risk of identifying the patient.

[64] The Ministry argues that if further information is ordered to be disclosed, it can be combined with already disclosed information and there would be no limitation as to how much the information could be disseminated, even to a patient's own community. I agree. Mr. Schiller has already received the location codes for the adverse reactions as part of the Spreadsheet. Every identifier that Mr. Schiller seeks, combined

with that which has already been disclosed, increases the risk of identification to what I consider to be an unacceptable level.

[65] In my view, the personal information that Mr. Schiller seeks cannot reasonably be severed and disclosed without the risk of patient identification.

[66] Much of Mr. Schiller's argument related to the AEFI forms. But he also sought disclosure of certain columns in the spreadsheet that the Ministry redacted, specifically age, gender, ethnicity and previous health history. To that end, he suggested that a new record would be created but it would be an easy task to simply add certain columns.

[67] Under *FOIPPA*, the Ministry has a duty to assist an applicant but this does not extend to the duty to create a new record. If a record was never created, the duty to assist only requires that the government institution be responsive to the application, undertake a reasonable search for the records, and provide any explanation for terms, codes or abbreviations if requested. There may be instances where a government institution is statutorily or legally required to keep records, but there is no duty to create them in response to an application under *FOIPPA*.

[68] Mr. Schiller referred me to *Service Alberta (Re)*, 2017 CanLII 5843 (AB OIPC) in support of his position. However, that decision dealt with ss. 10(2) of Alberta's *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25 (since rep) [*FOIPPA* Alberta] which, at that time, obligated the head of a public body to create a record for the applicant if certain criteria was met. *FOIPPA* Alberta was repealed in 2025 and replaced by The *Access to Information Act*, SA 2024, c A-1.4 [*ATIA*]. There is no provision in the *ATIA* requiring a public body to create a record for an applicant.

CONCLUSION

[69] Mr. Schiller cannot rely on *HIPA* to obtain the personal health information he seeks. I conclude that the personal information he seeks (that is not, on its face, personal health information) cannot reasonably be severed from the AEFI forms. Thus, his application under *FOIPPA* also fails.

[70] Mr. Schiller's appeal is dismissed.

J.
B.L. KLATT