Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #: HCS/048/2018]

On April 16, 2018, the Department of Health and Community Services (the Department) received your request for access to the following records:

“Please provide a list all the occasions since 30 January 1998 on which the Minister of Health and Community Services or an employee of the Department of Health and Community Services has in writing advised a physician in NL that the Department of Health and Community Services is studying, considering, or otherwise dealing with or addressing the subject of transitioning of hospital-based insured services to private medical clinics. The list should include the date of the communication to the physician, the name of the Minister or the employee who sent the communication, and a description of the hospital-based insured service(s) that is the subject of the communication.

Please provide a list all the occasions since 30 January 1998 on which the Minister of Health and Community Services or an employee of the Department of Health and Community Services has in writing advised a physician in NL that the Department of Health and Community Services is studying, considering, or otherwise dealing with or addressing surgical, diagnostic or therapeutic procedures described in paragraph 4(1)(a.1) of the Medical Care Insurance Insured Services Regulations. The list should include the date of the communication to the physician, the name of the Minister or the employee who sent the communication, and a description of the surgical, diagnostic or therapeutic procedure that is the subject of the communication.”

I am pleased to inform you that a decision has been made by John G. Abbott, Deputy Minister for the Department, to provide access to some of the requested information. Attached is a list of private clinic applications and inquiries beginning in 1998. Please be advised that the Department has no responsive records for the additional portions of your request. Access to the remaining records have been partially withheld under s. 40 of the Access to Information and Protection of Privacy Act (the Act) which states:
40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Act. A request to the Commissioner must be made in writing within

15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:
Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John’s, NL, A1B 3V8
Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact the undersigned by telephone at 709-729-7010 or by email at MichaelCook@gov.nl.ca.

Sincerely,

Michael Cook
ATIPP Coordinator
/Enclosures
Disclosure harmful to personal privacy

40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy where

(a) the applicant is the individual to whom the information relates;

(b) the third party to whom the information relates has, in writing, consented to or requested the disclosure;

(c) there are compelling circumstances affecting a person’s health or safety and notice of disclosure is given in the form appropriate in the circumstances to the third party to whom the information relates;

(d) an Act or regulation of the province or of Canada authorizes the disclosure;

(e) the disclosure is for a research or statistical purpose and is in accordance with section 70;

(f) the information is about a third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister’s staff;

(g) the disclosure reveals financial and other details of a contract to supply goods or services to a public body;

(h) the disclosure reveals the opinions or views of a third party given in the course of performing services for a public body, except where they are given in respect of another individual;

(i) public access to the information is provided under the Financial Administration Act;

(j) the information is about expenses incurred by a third party while travelling at the expense of a public body;

(k) the disclosure reveals details of a licence, permit or a similar discretionary benefit granted to a third party by a public body, not including personal information supplied in support of the application for the benefit;

(l) the disclosure reveals details of a discretionary benefit of a financial nature granted to a third party by a public body, not including

(i) personal information that is supplied in support of the application for the benefit, or
(ii) personal information that relates to eligibility for income and employment support under the Income and Employment Support Act or to the determination of income or employment support levels; or

(m) the disclosure is not contrary to the public interest as described in subsection (3) and reveals only the following personal information about a third party:

(i) attendance at or participation in a public event or activity related to a public body, including a graduation ceremony, sporting event, cultural program or club, or field trip, or

(ii) receipt of an honour or award granted by or through a public body.

(3) The disclosure of personal information under paragraph (2)(m) is an unreasonable invasion of personal privacy where the third party whom the information is about has requested that the information not be disclosed.

(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

(b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation;

(c) the personal information relates to employment or educational history;

(d) the personal information was collected on a tax return or gathered for the purpose of collecting a tax;

(e) the personal information consists of an individual's bank account information or credit card information;

(f) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;

(g) the personal information consists of the third party's name where

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party; or
(h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations.

(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the province or a public body to public scrutiny;

(b) the disclosure is likely to promote public health and safety or the protection of the environment;

(c) the personal information is relevant to a fair determination of the applicant's rights;

(d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people;

(e) the third party will be exposed unfairly to financial or other harm;

(f) the personal information has been supplied in confidence;

(g) the personal information is likely to be inaccurate or unreliable;

(h) the disclosure may unfairly damage the reputation of a person referred to in the record requested by the applicant;

(i) the personal information was originally provided to the applicant; and

(j) the information is about a deceased person and, if so, whether the length of time the person has been deceased indicates the disclosure is not an unreasonable invasion of the deceased person's personal privacy.
Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.
Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner’s refusal under subsection 45 (2).
**Private Clinic Applications and Inquiries 1998-Present: Inquiries**

<table>
<thead>
<tr>
<th>Person who made inquiry</th>
<th>Service</th>
<th>Approximate Date of Inquiry</th>
</tr>
</thead>
<tbody>
<tr>
<td>s. 40(1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Audiometric testing</td>
<td></td>
<td>February 1999</td>
</tr>
<tr>
<td>Skin flaps and grafts, excision of malignant and premalignant lesion</td>
<td></td>
<td>September 26, 2002</td>
</tr>
<tr>
<td><strong>Laser skin treatment</strong></td>
<td></td>
<td>?2002</td>
</tr>
<tr>
<td>MRI</td>
<td></td>
<td>January 27, 2003</td>
</tr>
<tr>
<td><strong>Laser skin treatment and sphincter botox injections</strong></td>
<td></td>
<td>February 8, 2006</td>
</tr>
<tr>
<td><strong>Laser skin treatment</strong></td>
<td></td>
<td>September 19, 2007</td>
</tr>
<tr>
<td><strong>Laser skin treatment</strong></td>
<td></td>
<td>? 2008 or late 2007</td>
</tr>
<tr>
<td>Low intensity laser skin treatment</td>
<td></td>
<td>April 2008</td>
</tr>
<tr>
<td>Vasectomy</td>
<td></td>
<td>February 2009</td>
</tr>
<tr>
<td>Hysteroscopic examinations</td>
<td></td>
<td>April 30, 2009</td>
</tr>
<tr>
<td>Bronchoscopy, esophagoscopy</td>
<td></td>
<td>June 9, 2010</td>
</tr>
<tr>
<td><strong>Laser skin treatment</strong></td>
<td></td>
<td>June 10, 2010</td>
</tr>
<tr>
<td>Hysteroscopic examinations</td>
<td></td>
<td>April 30, 2009</td>
</tr>
<tr>
<td>Endoscopy procedures</td>
<td></td>
<td>June 9, 2010</td>
</tr>
<tr>
<td>Obs/Gyne ultrasound</td>
<td></td>
<td>September 15, 2010</td>
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<tr>
<td>Surgical procedures</td>
<td></td>
<td>September 16, 2010</td>
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<tr>
<td>Sleep studies</td>
<td></td>
<td>October 26, 2010</td>
</tr>
<tr>
<td>Vasectomy</td>
<td></td>
<td>February 17, 2011</td>
</tr>
</tbody>
</table>

* These individuals inquired about MCP coverage for privately delivered insured services, but did not follow up with an application to the Minister.

April 4, 2011
H:Typing/PrivateClinicApplications
### Appendix A

Private Clinic Applications and Inquiries 1998-Present: Applications

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Service</th>
<th>Decision</th>
<th>Date of Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Phototherapeutic keratectomy</td>
<td>Approved</td>
<td>October 20, 1998</td>
</tr>
<tr>
<td></td>
<td>Argon laser retinal photo-coagulation</td>
<td>Approved</td>
<td>2002</td>
</tr>
<tr>
<td></td>
<td>Cataract surgery</td>
<td>Not approved</td>
<td>January 4, 2005</td>
</tr>
<tr>
<td></td>
<td>Endovenous laser therapy</td>
<td>Not approved</td>
<td>2006</td>
</tr>
<tr>
<td></td>
<td>Various ultrasound assessment</td>
<td>Not approved</td>
<td>May 12, 2006</td>
</tr>
<tr>
<td></td>
<td>PET scans</td>
<td>Not approved</td>
<td>April 19, 2007</td>
</tr>
<tr>
<td></td>
<td>Various ultrasound</td>
<td>Not approved</td>
<td>May 3, 2007</td>
</tr>
<tr>
<td></td>
<td>Laser retinal photocoagulation, laser iridotomy, laser angle surgery,</td>
<td>Not approved</td>
<td>September 9, 2008</td>
</tr>
<tr>
<td></td>
<td>capsulotomy and phototherapeutic keratectomy</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Laser skin surgery</td>
<td>Not approved</td>
<td>February 17, 2009</td>
</tr>
<tr>
<td></td>
<td>MRI</td>
<td>Not approved</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pre-natal ultrasound</td>
<td>Not approved</td>
<td>March 22, 2010</td>
</tr>
<tr>
<td></td>
<td>Vasectomy</td>
<td>Not approved</td>
<td>March 2, 2011</td>
</tr>
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</table>

April 4, 2011
H:Typing/PrivateClinicApplications