

**Consumers' Association of Canada (Alberta)**

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[www.albertaconsomers.org](http://www.albertaconsomers.org)

April 29, 2009

Mr. Fred Horne  
Chair, Standing Policy Committee on Health  
Legislature of Alberta

Re: *Lycka v. Alberta Information and Privacy Commissioner Judgement*  
<http://www.albertacourts.ab.ca/jdb/2003-/qb/civil/2009/2009abqb0245.pdf>

Dear Mr. Horne and Committee Members:

We are writing to draw your attention to an urgent matter with significant implications for proposed amendments to the *Health Information Act* as well as past and future interpretations of the existing *Act*. This is the recent Court of Queen's Bench of Alberta decision (filed April 20, 2009) *Lycka v. Alberta Information and Privacy Commissioner*.

Given Albertans' experiences to date, this court decision to allow the use of health information for marketing and fundraising purposes in historically restricted circumstances and many aspects of the rationale on which it was based are extremely disturbing. In fact, it appears to up-end the notion of consumer protection and the stated purposes of government-mandated Electronic Health and Medical Records, opening the floodgates to already problematic activities inside and outside the health care sector.

Therefore, we strongly urge your Committee explore the implications of this court decision prior to any recommendations related to the *Health Information Act* (Bill 52) and we request an opportunity to meet with you during your scheduled May 26<sup>th</sup> meeting to discuss our areas of concerns with you. Many of the assumptions of the Committee and presenters about the context for Bill 52 amendments no longer appear to be valid.

In addition, we ask that your Committee disseminate information about this decision and its implications for the protection of individual Albertans, particularly to any organizations or individuals that have made submissions or presentations on Bill 52.

Yours truly,



Larry Phillips, President

Cc: Honourable Ed Stelmach, Premier of Alberta  
Dr. David Swan, Leader of the Official Opposition  
Mr. Brian Mason, Leader of the Opposition New Democratic Party of Alberta  
Dr. Trevor Theman, Registrar, College of Physicians and Surgeons of Alberta  
Ms. Mary-Anne Robinson, Executive Director, CARNA  
Dr. Kelly Ernst, Director, Sheldon Chumir Foundation for Ethics in Leadership  
Mr. Tom Shand, Executive Director, Canadian Mental Health Association (Alberta)  
Mr. Frank Work, Information and Privacy Commissioner of Alberta