Title: Tuesday, June 8, 2004 HIA Review Committee
Date: 04/06/08
Time: 9:02 a.m.
[Mr. Jacobs in the chair]

The Chair: Good morning, everyone. I see that we're just a couple of minutes past the appointed time, so I will call the committee to order and welcome you all here. It's certainly a beautiful Alberta day out there. At least we can look out the window, except for you guys, and see what's out there. We don't want you to turn your chairs around, though.

We need to just clarify a couple of things this morning before we proceed with introductions. Your meeting binders were delivered to your offices the afternoon of Wednesday, June 2, 2004, I trust. Meeting transcripts were sent out to all participants late Thursday, and the meeting minutes were circulated to members yesterday and followed up with a revised version, which includes one addition to page 8.

A revised agenda was also e-mailed to all members' and stakeholders' offices yesterday. The only change on the agenda is the addition of the minutes from last week's meeting.

There are a number of documents which were initially included in members' binders which have been updated. All committee members are accustomed to that. These updates will be handed out as we get to the items on the agenda. So as we get to the item on the agenda where there's an update, you will be updated. Okay?

We will be breaking for lunch around noon, and lunch is available again today outside. You know, time permitting, we may want to take a break in an hour or so. If we get to a good opportunity around 10:30 or so, we might want to take another break also.

So unless there are questions on what I said, I will ask everyone to introduce themselves for the record. We'll start with Hector. Will you start? We'll do committee members first and then others.

[The following members introduced themselves: Ms Blakeman, Mr. Broda, Mr. Goudreau, Mr. Jacobs, Ms Kryczka, Mr. Lougheed, Mr. MacDonald, Dr. Pannu, and Mr. Snelgrove]

[The following departmental support staff introduced themselves: Ms Gallant, Ms Inions, Ms Miller, Ms Robillard, Ms Veale, and Ms Versaevel]

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: Corinne is passing out papers.

All right. Thank you very much. Our time frame today is a 9 to 4 meeting with an hour for lunch. We will definitely do our very best to have everyone out by 4, and maybe we can even do a couple of minutes better, but we do have a fairly heavy agenda.

So the next item on our agenda is the approval of the agenda for our meeting this week. I assume everyone has a copy. Unless there are questions, I would entertain a motion to approve.

Mr. Goudreau: I'll move to approve the agenda.

The Chair: Hector Goudreau has moved that we approve. All in favour, say aye.

Hon. Members: Aye.

The Chair: Opposed? Thank you very much.

Minutes, June 1. Again, are there questions? They have been circulated.

Lloyd – thank you very much – moves to adopt. All in favour, say aye.

Just a minute. Is that to do with this?

Mrs. Dacyshyn: Yes. There was an item that was brought to my attention that I wanted to add to the minutes, and it's under number 8 in the pan-Canadian framework section on page 5.

So the second paragraph on there will be: it was emphasized that the work is in development at an official level and is pending approval for consultation.

The Chair: Questions?

Ms Veale: Mr. Chairman, I noticed that on the first page for In Attendance my name was left off the list, and I would ask that it be added to the list.

The Chair: Absolutely.

Ms Veale: Thank you.

The Chair: Any other comments, questions, additions?

Lloyd, will you still move that?

Mr. Snelgrove: All right. I can't believe I didn't pick that up.

The Chair: Yeah, well, your bad day, Lloyd.

All right. As amended, all in favour, say aye.

Hon. Members: Aye.

The Chair: Opposed?

Okay. We got those important things out of the way.

Number 5 on our agenda is Approved Committee Budget.

Mrs. Sawchuk: Number 4.

The Chair: Oh. I didn't do number 4. Sorry. Thank you. I had a rough night. I got into Edmonton this morning at around 2 and was here at 6 o'clock, so if you will please bear with me.

Committee Mandate. You have a copy of that. It's under tab 3. No motions required here; it's just for your information. Questions?

Okay. We'll then go to the budget, which was approved because of the budget which came down in March. So you have it before you today. I believe everyone has a copy; right?

Ms Kryczka: Mr. Chair, I would just like clarification, because of the amount of the item, of other labour and services. Other includes . . .

Mrs. Sawchuk: Mr. Chairman.

The Chair: Yes, Karen.

Mrs. Sawchuk: Generally that category is used for printing costs for the final report, that type of thing.

Ms Kryczka: Okay. Thank you.

The Chair: Other questions?

Dr. Pannu: Mr. Chairman, is this $34,000 allocated for advertising for meetings to be held in public? What's the detail on it?

The Chair: Karen, do you want to respond to that?

Mrs. Sawchuk: Mr. Chairman, the advertising budget that's included in there is strictly advertising, and we're going to get into it further in the communications plan. But it's based on advertising province-wide, weeklies and dailies.

9:10

The Chair: That's to do with the consultation . . .

Mrs. Sawchuk: . . . guide. Right.

The Chair: As we get into the meeting today, we will introduce a consultation guide. It's in draft form. Once it's approved by this committee, Dr. Pannu, then we do need to get it out to Albertans and those interested so that they can respond.

Dr. Pannu: Just another supplementary.

The Chair: Yes.

Dr. Pannu: Is it just the print media that's going to be the vehicle, or are we going to use other media as well for advertising?

Mrs. Sawchuk: Actually, it's in the communications plan: news releases, that type of thing. It's further down in the agenda.

The Chair: Okay. Thank you.

Mr. Goudreau: Mr. Chairman, I'm just wondering about the travel expenditures of $3,000. I just know what my travel costs are, and I'm assuming what yours might be, coming from both extremes of the province. If we are to meet even only five times, you and I could use up that $3,000 very easily. I'm just concerned that if we're going to travel the rest of the province or have some meetings in Calgary somewhere along the line, that will not go anywhere.

The Chair: Good point. Yes, Karen.

Mrs. Sawchuk: Mr. Chairman, it was sort of a best-case, best-guess scenario when the budget was compiled. There's always room for the committee to move dollars within the categories in the budget, and there are occasions when, if there are additional funds needed, there's the overall committees envelope that we have. So it's something that we'll work with if it comes to that.

The Chair: Also, I might add, of course, that we don't know yet the extent of travel other than regular meetings. That will be up to the committee as we get through the consultation guide and look at what kind of summations we have.

You're right, Hector: it could be a number that's not adequate. But as has been pointed out, we can move items, or we can ask for additional budget, so we'll just have to monitor that one very carefully. Thank you for the question.

Any other questions? Okay. You have it for your information. No motion is required on that one. So unless there are further questions, we will move to item 6.

Ms Blakeman: Who authorizes an overrun on this budget if there is additional travel required? The other larger line items have already been explained and don't seem to have a lot of room for movement. Unless we're all going to forgo the pay or whoever is getting the $20,000, what's the process for getting approval of an overrun, and who approves that?

The Chair: Okay. Corinne, would you like to respond to that question, please?

Mrs. Dacyshyn: Mr. Chair, the Clerk Assistant and Clerk of Committees would be the person who would approve the extra expenditure as long as it's within the overall committee envelope. As long as there's money in other committees that we can move, it would be the Clerk Assistant who would be approving that.

The Chair: Thank you. Any others?

Okay. Moving on, then, to item 6. Catarina, would you like to take this one and introduce the committee to the draft terms of reference?

Ms Versaevel: Yes. Thank you. The draft terms of reference speak to the scope of the review and the format as well as proposed timelines. I would suggest that when we get to item 3 in these terms of reference on the proposed timelines for the review, we hold that discussion on the proposed timelines until we discuss the critical path because those timelines will need to be altered based on the critical path. That time has passed since these draft terms of reference were pulled together, but I'll highlight that in a moment.

With respect to the scope of the review, when the committee was established, its terms of reference were determined and reviewed within the department and within the minister's office. The scope of the review, then, has several components. One is to determine if the act and its supporting policy and administration provide an appropriate balance between protection of the individual's privacy and access to the individual's information, where appropriate, for the purposes of providing health services to the individual and to manage the health system.

As we discussed at the orientation meeting last week, section 109 of the Health Information Act requires that a select committee of the Legislative Assembly be established to conduct a comprehensive review, and these components of the proposed scope of the review reflect that provision within the Health Information Act. That provision makes specific reference to the requirement of the committee to review the application of the act "to departments of the Government of Alberta," meaning departments other than Alberta Health and Wellness, which is covered currently within the scope of the act; also, to review the application of the act "to local public bodies as defined in the Freedom of Information and Protection of Privacy Act" as well as to look at the scope as it applies "to any other entity that is not a custodian and has information about the health of an individual in its custody or under its control."

Basically, that component of the review speaks to, again, the provision within section 109 of the Health Information Act that the scope of application of the act needs to be reviewed, and we discussed at the orientation last week why that indeed was a critical component of the review.

The scope of the review also includes considering the impact of electronic health records, the electronic health record development, again, that we reviewed at the orientation meeting last week on the Health Information Act rules. For example, the electronic health record development and implementation and rollout, that Wendy spoke to at the orientation last week, suggested that in conducting the review, it would be important, again, to look at the scope of the Health Information Act to potentially expand beyond the current custodian listing in the act. Also, we talked potentially about the issue of access to the individual's health information within the EHR. So those are two examples of considering the impact of the electronic health record development on the rules within the act at this time.

The third critical element within the scope of the review speaks to the pan-Canadian health information and privacy framework that is in development across the country at this time. Because of the significance of that work and the commitment to harmonize rules for the collection, use, and disclosure of health information across Canada – and that is a commitment, as we talked about last week, in intent, currently not a commitment in fact. That work is still pending review and approval to proceed to consultation. However, the scope of the review speaks to the fact that any recommended amendments to the Health Information Act put forward by the select committee would need to reflect the harmonized rules that would be adopted by the ministers of health in the proposed pan-Canadian health information, privacy, and confidentiality framework.

So, in summary, then, the scope of the review speaks to the need that it is to be a comprehensive review of the Health Information Act to ensure that the provisions, the policy, and the administration reflect the balance between privacy and access; secondly, to deal with the impact of the electronic health record development on the rules within the act itself; and that the rules that are adopted as part of the pan-Canadian framework are reflected in the recommended amendments that the committee puts forward. That's what the scope of the review is to include.

9:20

What the review does not include, indeed what is specifically excluded from the scope of the review, is the legislation that was introduced in January 2004, the Personal Information Protection Act, except for the issue of health information contained in employee health records. Currently the PIPA legislation includes health information contained in employee health records pending discussion by the select committee, but the exclusion here is to make reference that that legislation and reviewing the provisions within that legislation except for a discussion on health information in employee health records is excluded from the scope of this review, as is the Freedom of Information and Protection of Privacy Act, that the focus of this review is of course on the Health Information Act.

So perhaps I'll stop on the scope prior to discussing the format.

The Chair: Thanks, Catarina. I'm sure there will be questions.

Yes, Lloyd.

Mr. Snelgrove: The scope about adopting the rules adopted by the ministers of health – are we supposed to keep an eye on what they're talking about and decide what we're supposed to talk about? What would happen if the ministers don't come to an agreement on the harmonization of the rules? I'm not sure how we're supposed to operate if we're limited to say that we have to agree with what they have agreed to. You know, traditionally we don't seem to agree a whole lot with everybody. I'm just not sure how that fits into the scope.

Ms Versaevel: The pan-Canadian framework, if the ministers indeed agree to those harmonized rules – that decision of agreement, yes or no, will be made in the fall of 2004. The Health Information Act and the pan-Canadian framework are already similar. The challenge for the committee in terms of reflecting the rules within the pan-Canadian framework should that framework be adopted is likely not going to be a significant challenge in that the framework rules and the rules within the Health Information Act are already the same except in very few instances.

One of those instances, which is spoken to in the consultation guide which will be tabled this afternoon, is the issue of consent for care and treatment. That's probably the most significant difference between the framework and the Health Information Act.

The other point that we'll talk more about this afternoon which relates to your question is that the pan-Canadian framework reflects the rules that jurisdictions believe have to be in place in order for health information legislation in this province to be considered substantially similar to the federal law, and it is of significant concern to Alberta to have legislation that is seen to be substantially similar to PIPEDA so that the health information legislation can be seen to be the law for Alberta.

So this reference to the pan-Canadian framework also reflects the need to come up with substantially similar rules to the federal privacy law, but in Alberta we're far more fortunate than other jurisdictions because our legislation is very similar to this framework except for consent for care and treatment, which we have to grapple with anyway and which we'll speak to more this afternoon.

The Chair: Are you okay, Lloyd?

Mr. Snelgrove: I understand, and I guess maybe the only problem I have is that the word "ensure" kind of says that you have to do all of that. I'm not sure that committees should have to recommend something they don't agree to, so just that we consider the impact: we review the application, and then we ensure we have to do what they say. I can understand where you're going. I'm just not sure that "ensure" gives the committee the mandate it needs to look at everything. But, you know, it's early in the week.

The Chair: That's okay. I've asked the same questions, Lloyd.

Catarina, do you want to respond again?

Ms Versaevel: Yes. What I'm hearing is that you would rather that that third bullet say: to consider whether the recommended amendments to HIA work toward reflecting the harmonized rules adopted by the ministers of health to build more flexibility for the committee.

Mr. Snelgrove: Or an equivalent word, "attempt." Yes.

The Chair: Thank you, Lloyd.

Thomas.

Mr. Lukaszuk: Thank you. It's a very good point that Lloyd brings up. It leads me to believe that we may be six months premature, because if this pan-Canadian agreement is based on the fact that there are currently similarities between all the provincial acts, subject to the changes that this committee could bring to the act, the result may be that Alberta's act may not be that similar at the conclusion of this exercise. So I'm wondering if it wouldn't be beneficial to have the pan-Canadian agreement struck first and then review Alberta's act with the parameters of the pan-Canadian agreement as opposed to vice versa.

Ms Versaevel: I think that on that point if the wording in the third bullet were using words more like "to consider whether" or "to conduct an analysis to determine," leaving some flexibility for the committee, recognizing that the pan-Canadian framework and the issue of substantially similar is critical as part of the review, that might address both questions and concerns that have been raised.

Ms Kryczka: Well, I think that that bullet is perhaps in its wording asking this committee to commit at this point in time. I think we've had from Catarina in the orientation – I've heard a rationalization that this is part of the exercise out there. Maybe it's more a timeline issue. I mean, I've written it down here. You said: the fall of '04. I mean, we'll come back and address this time and again, and

certainly in the fall of '04 we'll know the outcome of this pan-Canadian decision. So other than to change a word or two so it doesn't sound like we're so overly committed – maybe you don't like the word "ensure," but it's part of the exercise, the way I've understood it.

The Chair: Did you want to respond to that one also, Catarina?

Ms Versaevel: No.

The Chair: Okay.

Before I go to Mr. MacDonald, I might just say that, you know, this committee does have to adopt the terms of reference by resolution. So if you want to make some adjustments or changes, that's certainly your prerogative. You may want to look at a wording change on that one as we go forward.

Mr. MacDonald, you had your hand up?

Mr. MacDonald: Yes. Thank you, Mr. Chairman. I have the same reservations or concerns that have been expressed earlier by Mr. Snelgrove. I have a question for you at this time. What other jurisdictions, either provincial legislative bodies or the House of Commons, have dealt in a formal way with this protocol or this framework that we're referring to here as the pan-Canadian health information package? Is this just an informal framework by the ministers of health, or has this been ratified by a legislative body in this country already?

Ms Versaevel: As presented at the orientation last week, the work on the pan-Canadian framework is at an official level. It has been worked on by officials within departments of health across Canada. It is pending review to proceed to consultations.

So at this time the pan-Canadian framework has no status. It is a piece of work in development. It reflects a commitment made by ministers of health that was signed in the year 2001 called the harmonization resolution, where ministers of health agreed to harmonize rules reflecting principles in the harmonization resolution either in legislation or through other measures. The work on the pan-Canadian framework is an outgrowth of that document called the harmonization resolution.

9:30

This pan-Canadian framework has been worked on by jurisdictions because of the federal privacy law, that we spoke to last week, and because of the importance of creating an interoperable electronic health record. The concerns I hear from the select committee at this time to my mind likely require that the third bullet indeed be revised to ensure that there is more flexibility and recognition that this pan-Canadian framework is underway and will impact the work of the committee but not commit the committee to those rules within the framework until such time as the committee has an opportunity to address any rules and issues that may not suit this committee's proposed recommendations, and I think that would be possible to do.

The Chair: Okay. Thank you.

Dr. Pannu.

Dr. Pannu: Thank you, Mr. Chairman. I have a question on the pan-Canadian framework. As I understand it, it's available in draft form. It's obviously not ratified by the ministers yet. Officials in respective departments across provinces and perhaps officials in the federal government have worked together to produce some document called the pan-Canadian framework. Is that right?

Ms Versaevel: That is correct.

Dr. Pannu: Is that document available for circulation to this committee in its draft form?

Ms Versaevel: On that question there is no change from what we talked about at the meeting last week, so no, not as yet. Likely not until the end of June. Very soon, likely. It needs to be submitted to the conference of deputy ministers, and it will be that conference that determines whether that document will proceed to consultation.

The Chair: Okay. So an issue has been raised around the third bullet, the word "ensure." Is the committee wanting to change that bullet? For example, we could say something like: to consider whether any recommended amendments to the HIA reflect the harmonized rules adopted by the pan-Canadian group. We would use "consider."

Mr. Snelgrove: Mr. Chairman, I think everyone would agree that there would be a benefit from the success of the multiprovincial process. So I think if the committee were to accept that as a given, that there must be a benefit in that, if we run the review recognizing where at all possible the benefit of harmonizing our discussion – you know, I think if it's a given that this review is going on and that there is a benefit in that approach so that our recommendations can be mindful of that parallel approach, we can go with that, keep it in there, recognizing that it is a work in progress and that our work should be able to be reflective of a national approach.

The Chair: Are you proposing, Lloyd, that we just expand bullet 3 so that we're clear that that's the intent?

Mr. Snelgrove: Yes, and I think Catarina has done that pretty well with her suggestion.

The Chair: Thomas.

Mr. Lukaszuk: Thank you. To achieve that, I think the committee ought to be concerned that its hands are not tied with the process but with the outcome. To make sure that bullet 3 reads properly, you don't want to change the word "ensure." The word "ensure" is just fine. You definitely want to get rid of the word "reflect." So I would suggest that bullet 3 should read: to ensure that the recommended amendments to HIA consider the harmonized rules adopted by the ministers of health. This way the process is not bound and the outcome is not bound.

The Chair: So are you making that as a resolution to amend?

Mr. Lukaszuk: I could put forward a resolution that the third bullet of the draft Select Special Health Information Act Review Committee terms of reference read: to ensure that the recommended amendments to HIA consider the harmonized rules adopted by the Ministers of Health in the pan-Canadian health information privacy and confidentiality framework.

The Chair: Thank you, Thomas.

Okay. To the motion. Karen, were you on this point?

Ms Kryczka: Well, I feel that we're getting rather nitpicky. My concern is more that the statement reads that these harmonized rules have already been adopted. They may not be adopted. So I was going to suggest that you put in something like "when adopted" because if they're not adopted, we don't have to worry about it.

Dr. Pannu: Mr. Chairman, I just want to suggest to my colleague Mr. Lukaszuk that he substitute the word "consider," as he suggested, with the word "address." That's a broader sort of way: to address the harmonized rules. I think that will be more appropriate because that gives us more flexibility, more room for debate and consideration, but I think that otherwise the intent is right.

The Chair: Thomas, is the wordsmithing okay?

Mr. Lukaszuk: Considering it's Tuesday morning, sure; it works for me.

Dr. Pannu: That means that we undertake to look at it.

The Chair: Mr. MacDonald, did you also have a point?

Mr. MacDonald: No. At this time my questions have been answered during the review of the act, section 109. At one point, Mr. Chairman, I thought perhaps we should seek advice from Legislative Counsel in regard to the pan-Canadian framework and the fact that it is being discussed at a national level by health administrators, not legislators. At this point perhaps it's not necessary to have Legislative Counsel look at this, but I'm a little cautious as to the outline of the review in section 109 and what we're looking at here in the proposed scope of the review. I have questions, but hopefully they will be answered as we go along.

Thanks.

The Chair: Thank you.

Ms Blakeman, did I see your hand up? No.

Karen, are you okay with the wording that we've proposed here for the amendment?

Ms Kryczka: Yes. I don't think it's such a huge issue overall.

The Chair: Catarina, are you comfortable with that change?

Ms Versaevel: Yes. Thank you. My understanding is that the word "reflect" will be substituted by the word "address" to ensure flexibility.

The Chair: Okay. We do have a motion on that bullet. It's been addressed. Seeing no more questions, I will ask the question. All in favour, please – oh, hold on. Thomas.

Mr. Lukaszuk: It's not the word "ensure" that's being changed. It's the word "reflect" that's being changed.

The Chair: Right. It's "reflect."

Ms Versaevel: Yes, to substitute it with the word "address."

The Chair: Everyone is clear on that? It's "reflect" that's being changed.

Moved that the third bullet of the draft Select Special Health Information Act Review Committee terms of reference read:
to ensure that the recommended amendments to HIA address the harmonized rules adopted by the Ministers of Health in the pan-Canadian health information privacy and confidentiality framework.

Okay. All in favour, say aye.

Hon. Members: Aye.

The Chair: Opposed, say no. Okay. That's been amended then.

Coming back to the terms of reference, are there any other questions on the terms of reference as presented so far? Well, then, are you ready to adopt the terms of reference as amended?

Ms Versaevel: Would we then just briefly discuss the format, which is also included in the terms of reference, section 2? Would you wish that, just to highlight that?

The Chair: Why not?

Ms Versaevel: The format for the review process built on the format of the review process conducted for the review of the Freedom of Information and Protection of Privacy Act. So for those members who were engaged in the review of FOIP, section 2 of the terms of reference would be familiar to you.

It speaks to the committee holding initial meetings, as are currently being conducted, "to discuss terms of reference and budget, to receive orientation and to discuss the public consultation process." The proposed format would also include

- Media and advertising coverage . . .
- Discussion paper to be prepared . . .

This is the consultation guide draft that's on the agenda for discussion or for tabling this afternoon.

- Committee to meet and discuss issues with parties from which a response to the discussion paper may not be appropriate.

There may be, as suggested here, the commissioner, officials of the ministry, special entities that are subject to the act; for example, organizations like the Alberta Medical Association.

Other points in the format.

- . . . to receive written feedback and hear stakeholder group presentations . . .
- . . . to analyze and discuss issues and prepare a preliminary report.

9:40

Again, since these terms of reference were drafted – and this will be impacted by the critical path, the time frame, for the committee – a preliminary and a final report may not be what the committee wishes to do given the time frame, but that was as part of the FOIP review. In preparing this for your discussion, we did include to put that preliminary report on the web and receive any further discussion. Again, once you look at the critical path and have a discussion, whether there's time for a preliminary and a final report is something you likely will want to take a look at. Then you'll prepare and submit a final report to the Legislature. So, basically, it is following a similar format to what occurred for the FOIP review.

The Chair: Any questions on the format? It may be that before we want to proceed here, we need to talk about the critical path, Catarina, and have that. But if there are other questions on the format, certainly we would accept those.

Mr. Snelgrove: If this were the first shot at the information, then the very broad public review is critical. At this point, when it's in process, I want to know how we're going to ensure that the involved parties, doctors and the advocacy groups and stuff like that, are guaranteed to get access to us. A more focused approach to asking the people involved right now seems to me more critical. Like, in the day-to-day operations of an MLA office we get very, very few individuals that are concerned with this. We have the people involved that may be able to help us make it better, and that's the people that I think we need to focus on approaching.

The Chair: Okay.

Karen, do you have a comment there?

Mrs. Sawchuk: Thank you, Mr. Chairman. Part of the communications plan addresses a letter going out to the main stakeholders, the ones that we're already aware of, along with a copy of the consultation guide. They will be aware of the process right from the outset. They're not going to be relying on the advertising. The advertising is more for the agencies or private citizens who aren't aware of the process to this point, and it'll be a notification to them of that. But the main stakeholders are already aware of what's going on, and they will receive direct notice.

The Chair: Thank you, Karen.

Catarina, would you like to add to that also? I think Karen's point is well made.

Ms Versaevel: Yes, absolutely. No further information to add.

The Chair: As I understand it, Lloyd, many of the people that are concerned about this are, you know, probably already anticipating this review and preparing submissions.

On the proposed format, any other questions?

I see we have Louise here. If she would come forward and maybe talk about the effects of dissolution on this committee, which would definitely have and impact on our timelines and going forward. So, Louise, if you would be so kind as to enlighten us on those effects.

Mrs. Kamuchik: Thank you, Mr. Chairman. There was a brief memo that I had prepared back when we were still sitting on the effects of dissolution should an election writ be dropped. As you know, there are always rumours of this happening. We don't know the time. At that time, the rumour was that it could possibly take place, as has happened several years in a row now.

The Chair: Excuse me, Louise.

Has everyone got this in their binder? Good.

Mrs. Kamuchik: Under tab A, I believe, of your binder.

The Chair: Sorry, Louise. Go ahead.

Mrs. Kamuchik: Thank you. The effects of the dissolution of the current, 25th, Legislature would mean that the committee would cease to exist immediately. If the work has not been completed, it's basically lost. Unless someone is able to read the minds of the people who make this decision, we don't know when this election writ could be dropped. If it is as happened in February 2001, the ideal scenario would be if the committee could complete its work. I know that it would be a very tough deadline to meet for the fall sitting of the current year. The committee would table its report. It would be followed by a motion by the Assembly to concur in the report. Then the laws would be changed to reflect the committee's decision.

If the timeline is too strict, the next-best scenario would be to have the committee prepare its report and have it ready for distribution in the early part of January of 2005. The committee's mandate provides that the report could be presented to the Clerk and distributed to all Members of the Legislative Assembly. It would mean, though, that if there is no spring sitting, then there could be no motion to concur in the report. However, it would still have been prepared and distributed to committee members. If the election writ is dropped, then at least the work has been finished.

There is nothing to preclude that with the First Session of the 26th Legislature, the current chairman of the committee, Mr. Jacobs, who would then not be recognized as the chairman of the committee because it no longer exists, could still table a copy of the report, and it would become part of the official records of the Assembly and could be certainly accessible through the Library and other areas.

So, in summary, if you can get your work done for the fall sitting, it would be ideal. If not, January would be the other scenario. Of course, it just depends on when an election writ is dropped.

If you have any questions, I'd be more than happy to respond to them.

The Chair: Thank you, Louise. Yes, we do.

Hector.

Mr. Goudreau: Yeah. I'm just trying to understand the process here. You're saying, Louise, that if the report has not been finished and the writ is dropped, all the work that we've done to date is lost?

Mrs. Kamuchik: Well, it's lost in that it's not part of the official records of the Assembly in the way of a sessional paper because nothing would have been tabled.

To meet the requirements of section 109 of the act, the committee would have to be struck again with the new Legislature. It would likely have one or two new members, depending on whether members, you know, decide to run again or what have you. In fairness to these new members, they would have to start from scratch, if you will, to review what you are doing now. If the committee has made some recommendations and it's on the committee records, it could certainly review these and adopt them. But keep in mind that if you have one or two new members, they'd have to be brought up to speed. So it's not lost in that it's going to disappear into oblivion. It's lost in that it hasn't been prepared in a final report, tabled in the Legislature, and a motion to approve the committee's report presented and approved and agreed to.

Of course, the new committee, whether it's constituted of the members that you see today or one or two new members, would certainly be free to review all that you've done and all the hard work that you've put into this over the coming summer and, again, agree to accept some of the recommendations you may have reached by then.

The Chair: Thank you.

Dave.

Mr. Broda: Yes, a question. I guess what you're saying, Louise, is that this fall session would be the ideal. When we look at the critical path right now, it means that we'd have to probably change it and try to focus on having it done by the fall. So is it doable by fall?

9:50

Mrs. Kamuchik: I'm afraid I can't answer that. I just know that it would be difficult because you have quite a heavy workload to deal with. You've got in there your other commitments. It's summer; maybe one of you would like to take a weekend off once in a while. It would be difficult, but it all depends on how much time you're willing to devote to meeting several times over the summer and the early part of the fall.

The Chair: I think that's exactly right, Louise. It would depend on the committee's willingness to devote the time necessary to do it. It's probably doable and possible, but it would require probably a real commitment on behalf of the committee to get it done.

Mr. MacDonald, you had your hand up.

Mr. MacDonald: Yes. Thank you, Mr. Chairman. I was just reviewing the critical path that was provided to me by Corinne, and this goes back to Mr. Snelgrove's earlier reservations about the pan-Canadian framework. In the critical path I see that there is "pending approval to proceed to consultation from Conference of [the federal, provincial, and territorial] Deputy Ministers of Health." This is going to go on, I assume, this summer. So perhaps we should hold back until we hear the results of those reviews or those consultation processes that are going on. I don't think there's a fire here. If we go to January of February of next year, I don't think that should really matter. I think it's very important, in light of what Mr. Snelgrove said earlier, that we wait and see what develops further with the pan-Canadian framework.

Thank you.

The Chair: All right. I hear you.

We have some other comments.

Mr. Snelgrove: I think, Mr. MacDonald, that they may actually be watching us. I don't have a problem proceeding with our review of it. I don't know what other provinces or what other associations are doing, but I think we're ahead of the game here with this idea. So I don't have a problem proceeding with this. I just don't want to proceed under a predetermined outcome. I would rather go along, and we very well may be the ones that are providing guidance to the federal process too.

I mean, I certainly don't want to put this around other people's agendas. Sometimes if you think it takes a year to do something, it will, and if you think you can move it up to six months . . .

The Chair: Thank you.

Mr. Lukaszuk: Mr. Chairman, I'm not convinced that the possibility of a writ being dropped sooner or later is a factor that we should be concerned with in the first place. Let's face it: a writ can be dropped at any given time, you know, from day one after the election to five years later. If we were to govern our work based on when we may anticipate that it will or not drop, we would never have any select committees in place.

So my suggestion is along the lines of Mr. Snelgrove's. Let's continue. Let's do our best. If it doesn't drop, great. If it drops, it's also good.

The Chair: Thank you.

Dr. Pannu.

Dr. Pannu: Thank you, Mr. Chairman. I have observations on the critical path here. July and August are usually times when most families take time out: use some time to spend with families and friends, travel. Surely, some well-organized groups, you know, the Consumers' Association of Canada and others, will have means during these months to come before us or prepare briefs and submit them to us regardless of what time of the year it is, but for individuals and families in smaller communities to take part seriously in a consultation will be made more difficult if we follow the consultation timelines here. July and August are not the best times.

This is a very important bill. That is why it provided for a select committee to be struck, as it has been, to review it seriously after further consultation with Albertans, whether they're individuals or organizations. So I would say that we should continue our work but not rush it such that we preclude the possibility or ability for individuals and groups to come before us or make their submissions to us on their own time. We certainly should not rush it. So my concern is about July and August being the only two months of consultation and input from Albertans.

The Chair: Thank you.

Do I have another?

Ms Kryczka: Well, I guess I agree generally with what people are saying, but I look at this from two perspectives: the process, in the critical path, what things we have to do, but then there's the logistical side.

For instance, I think it's probably realistic that we won't have in July and August a hundred per cent committee attendance. As long as we have a quorum in terms of consultations when we do them for the professional groups that may be coming in, maybe even some agencies that want to come in and do a presentation, and if we can put two days aside back to back, you know, what is logistically efficient here?

For me, I think this is a heavy topic and a very serious topic. I would rather see it condensed and look at the goal of November, as we talked about in our orientation meeting, just to keep the information that we're going to be processing forefront in my mind. I think that for me anyway – and I'll speak for myself; no one else here – it would certainly be much more, in my mind, effective if we could work on it somewhat. You know, the goal, I thought, was November: assuming that we're sitting in November, we are ready to report, to table.

The Chair: Thank you, Karen.

Mr. Lougheed: From my perspective, I'd prefer to see consultation moved a little further back, into late August or September.

The Chair: Okay.

I might just make a couple of comments, if I may. It has been brought to my attention – and I know I'm setting myself up here, but I do it all the time, so why not once more. Thinking back to the FOIP committee review – and some of you were on that review; not all but some – they did hold 10 meetings from June to August as a committee. It didn't appear as though the world collapsed. We were able to proceed.

Louise did explain to us the importance here. Ideally, we would get our work done prior to the commencement of the fall sitting, whenever that is. We're making some assumptions that it might be a similar time frame to what it was in the past. So, you know, I don't know what else we can do besides make those assumptions. So, ideally, we would get our work done prior to or at the commencement of the fall sitting. If we aren't able to do that, as Louise has pointed out, we can still probably table a report, although the committee membership may change. The chair may change. Some of us may not run; we may not get elected. I mean, there are a hundred scenarios there that could develop.

But we as a committee have been charged with the responsibility to review the Health Information Act. As you have pointed out to us, it is important work, and I think the point has been made by some committee members that we don't know exactly what will happen down the road but that, you know, it might be a good idea to proceed and do the best we can. I don't think that it's intended that we would fast-track the report at the risk of not doing it justice, but maybe we need to take a positive attitude here and try to do the best we can given the scenario we have and hope for the best. If we're unable to get it done, as Louise has pointed out, there are some alternatives. They may not be as good, but nevertheless they are there.

Do you have some more comments, Louise, in view of what's been said around the table?

Mrs. Kamuchik: I don't want to add any more than what I've already said, Mr. Chairman. I know that you've got quite a lot of work ahead of you. If you're able to do it, the sooner the better, but early January would buy a little bit more time, and the report could still be tabled eventually. It all depends on how hard you want to work over the summer and how much time you have for all these meetings that are going to be necessary to review what you've been asked to do.

10:00

The Chair: Thank you. That will be a committee decision. You as the committee will set the dates, and we will just have to work through that.

Ms Kryczka: I'm back, I guess, to the logistics. How many meetings are we looking at? I have no idea. You mentioned 10 with FOIP. Would each presentation be a one-hour presentation or two hours? I have no idea. Maybe someone else has a better idea than me.

The Chair: Well, Karen, it was 17 meetings with the FOIP review. You know, we used FOIP because it was a similar review, but certainly it's not a given that we have to do it the same way that FOIP did it. If there's any value in the FOIP experience, we did the 10 meetings between June and August and we did 17 meetings in total to complete our work.

Ms Kryczka: And each presentation was approximately – what time did you allocate?

The Chair: Karen or Corinne, do you want to answer that?

Mrs. Sawchuk: Mr. Chair, we did it a little differently. If I remember correctly, we had set aside two full days initially, and we had stakeholders that made requests to be heard by the committee. There were also a few private citizens. We assigned specific time slots. It was set for everyone. It was either one hour or – I'm not sure, but I think that with the larger associations it might have been that long. With some of the other presentations it was shorter. We just scheduled two full days, and then we had additional ones about two, three weeks later.

The Chair: Before I call on Lloyd to comment, I would just add that all FOIP consultation meetings were held in Edmonton in this room, so the committee did not travel. It doesn't mean you're limited to that, but with the FOIP experience we did not travel. People came here to make their presentations to the committee, so that certainly facilitated the process.

Mr. Snelgrove: Mr. Chairman, I would just say that if what we find as we go through this process is that it's pretty simple and we can have it done by November, that'd be great. If we find out that it's extremely complicated, then it's probably even more important that we get it done by November. I don't want to spend a summer – and I know none of you guys do – working on this to have it disrupted by a writ.

I agree with Dr. Pannu that, yeah, July and August really aren't good times for that, but if we will agree that we may have to put a little extra time in in September, October, November, I really think we should keep an eye on November. I wouldn't feel very good about sitting here for 15 or 20 days and then have all of the work we've done – and if we're here then, then I would have to believe we're doing some good work – wiped out by a writ. So I would hope that we could target November, especially if it's a heavier work load. Then it's even more important that we get it done by then.

The Chair: Thank you, Lloyd.

Dr. Pannu: I think there are two issues here. One is the deadline by which we want to have the report finished. Clearly, that is related to the critical path here. So one issue is: is the end of November as the deadline feasible, appropriate? I agree with Lloyd that perhaps we should aim for that kind of date. We'll find out whether it's really feasible or not as we go down the road. The other issue is allowing Albertans to have the opportunity to speak their minds to this committee.

Mr. Chairman, you referred to the FOIP committee's experience. I just want to add to that my experience of having been on another all-party select committee on justice that travelled around the province, a committee of seven or eight. This was '98 I think, during my first term as an MLA. I found that experience most beneficial to me as a rookie MLA but also extremely helpful to communities far off from here to be able to come to the committee sessions when they were held, say, in Peace River or Fort McMurray, where we went, or Medicine Hat. We visited there. Individuals came before us with absolutely marvellous ideas about what changes needed to be made to our justice system.

This piece of legislation, to me, is extremely important. The committee needs to bend over backwards to make sure that ordinary Albertans have some opportunity to voice their concerns and give us their advice, and for that I think some travel will be needed. July and August may not be the best time to undertake this.

The Chair: That's certainly possible, Dr. Pannu.

I just might make this observation. When we get through today, you will have received the consultation document, which is in a draft form. When this committee approves the document or changes the document or deals with it – once it's approved by this committee, then it will go out to Albertans. There will be a time lapse there of at least three to four weeks when we will have to give Albertans an opportunity to have time to get prepared to report to the committee. So, you know, you're going to be looking at three or four weeks after this committee approves the document to do some summer vacations, et cetera.

I agree, Dr. Pannu. We don't want to deny anyone the opportunity to present. Until we have put out the document and know who's coming, it's difficult at this point to address that, but we certainly would want to make sure we do a thorough job. I agree.

Ms Blakeman: My concern around trying to truncate the timelines of this committee is around the public consultation. If we are dealing with any nonprofit groups, a lot of them don't have the funding to keep more than a skeletal staff on over the summer. They respond to direction from their boards of directors, who may not meet over the summer or may meet less frequently than usual. They would usually meet once a month, and now they can only meet every six weeks. If they agree that they'd like to respond to the review, well, they have to wait for the next meeting to come up and the board of directors to give them the direction to do something and then follow through on that.

So I'm a little alarmed to hear the chairperson considering a three- to four-week notice period. I think that's very short for almost any group to respond to with perhaps the exception of large and well-

funded organizations like the Alberta Medical Association, which has got enough staff on to be able to continue this. But for anyone else I think that if we're looking at holding consultation meetings in July and August, we may well not be able to do that or we simply wouldn't get very many people coming out. I think that's flying in the face of what the committee is trying to achieve, so I'm very cautious about trying to truncate anything for November.

The Chair: Thank you.

Ms Kryczka: I don't know what truncate means, but anyway I'll guess what it means.

I'm always saying and my attitude is that there's always more than one way to skin a cat, or you mentioned being positive about this. My understanding from looking at the critical path is that we have presentations to the committee. I was saying earlier that as long as we have a quorum of the committee – this is a fairly large committee, and even if we decide to travel at all around the province, for the whole committee to travel is, I think, logistically rather heavy. I won't enlarge any further on that point.

The other thing is that some people may just want to do a written submission. Perhaps we could look at – and maybe we have already in our communications plan. Whether it's an individual citizen or it's a nonprofit agency or whatever, maybe they'd rather just do a written submission to the committee. Do they all have to be, you know, face-to-face presentations? As long as you get your comments in to the committee – is that not the issue?

The Chair: I'll assume that would be okay.

Mrs. Kamuchik: Mr. Chairman, many times in the past select special committees have received and reviewed written presentations, and we've usually had someone attached to the committee that can summarize the presentation for review by the members of the committee.

10:10

Ms Kryczka: I would assume that if an individual person has read this document and takes a personal interest in it and has a message, they will comment on one or two of the issues or areas. They're not going to comment in totality as we would. We would have a totally different submission from, say, the AMA, which would be very important to receive and much more detailed. I'm just trying to think of: you know, realistically what are we looking at?

The Chair: Thank you.

Thomas.

Mr. Lukaszuk: Thank you. A question about the discussion paper. How soon, if ratified within the next meeting or two, can we actually get it out in print and into groups' hands?

I, too, appreciate the importance of thorough consultation, and I definitely recognize the importance of the act and how critical it is to get thorough input without hindering anybody, but with this type of work and having sat on previous select committees and other committees, there really is no such thing as an ideal time. For some groups perhaps summer may not be a good time. For others the fall season and Christmas may not be good ones. Some groups appoint their new boards of directors following the summer, so you will have a bunch of fresh members on boards who will not be in a position to address those issues. I am not convinced that there is such a time period as an ideal one. Many would argue that summer is the best time because people have the most free time on their hands and they're not hindered with their professional work.

My question is: how soon can we get that document into people's hands?

The Chair: Karen, would you like to respond to that?

Mrs. Sawchuk: Mr. Chair, I believe – and I'm guessing here – the consultation guide is something that the committee will have to adopt. They've got to deal with it first. It's on today's agenda, but it's just at a very preliminary point today. Then I think we're going to need at least a full day – Catarina, you can correct me if I'm wrong – to go through that document for the committee to adopt it, at which point we'll be able to send it out to stakeholders. Then it will also be sent out to anyone who requests it, after we run the advertising, if they choose to do that.

The Chair: So, Thomas, if we were able to complete the approval of the document in the next two weeks, then it could go out relatively soon. We're hopeful that we can get it out by the end of the month or the 1st of July, but we do need to approve it. You're going to get it today. We'll do some preliminary discussions today, but we won't try to make a decision today, so we'll have to come back here as soon as possible, after the committee has had the document in their possession, to discuss it and then amend it or approve it. So, you know, we're hopeful we could get that out by the 1st of the month at the latest.

Catarina, would you or Wendy or anyone like to add to any of the comments that have been made?

Ms Versaevel: Yes, I would. The consultation guide, as you have pointed out, should be able to be distributed by the end of June, early July depending on the nature of the comments and revisions requested and required by the committee.

In terms of the critical path there have been comments on the critical path, and if I could just make a few comments on the comments. The thinking behind the critical path was that during July and August there would be preliminary consultation. "Preliminary" is there recognizing that there are indeed some organizations who would be in a position to provide commentary on the Health Information Act and required amendments. There are organizations already that we're aware of who are working on revisions, so in a preliminary way it may be possible to get discussion and to receive material on the three-year review as well as on the draft of the pan-Canadian framework, assuming that it is possible to proceed to consultation with that document. So during July and August those kinds of discussions could occur.

Why that time frame is important for July and August is not only in relation to the three-year review proper, but on this pan-Canadian framework there will be conversation with some stakeholders likely if we can proceed to consultation on that framework during July, August, and into early September. The hope had been that we could integrate some of those conversations with the framework and the three-year review because they're covering the same topic areas.

The timing of July, August, and into September is critical for the pan-Canadian framework because in order for jurisdictions across Canada to argue that there can be an exemption based on the framework from this federal privacy law for health organizations – means that jurisdictions have to get their analysis done on these framework rules by the fall of 2004. So that time frame for the framework rules is very critical.

The hope had been to try and integrate the three-year review and some of the issues in the framework. The thinking here was: in a

preliminary way do some consultation on the three-year review and the framework in the fall at a broad level, be able to look at some amendments, and engage in a second round of consultations on amendments to HIA in October and November.

This critical path, as you can see from looking at it in terms of the second page, was thinking that the committee would be completing its work in January. So it was looking at the January timetable, not the November timetable. This critical path had been based on two rounds of consultation: preliminary and then a second round of consultation in the fall.

Dr. Pannu: Mr. Chairman, having carefully listened to what has just been said – and all the information is here on these two pages – I'd be willing to proceed with this proposal as the basis of the committee's work. I'm satisfied that it does provide an opportunity for a second round of consultations, which I had overlooked when I looked at it.

The Chair: Well, certainly, that's a decision for the committee. It's certainly an option for the committee. It could add length to the committee's work, but it is an option to the committee. To go back to the FOIP committee again, I think they did do a second round after the recommendations.

We tried to tie these terms of reference into the timeliness and the effects on future sessions and so on. Before we leave this terms of reference item, we do need to approve it, but I don't want to do that till the committee is satisfied with the terms of reference that have been discussed, which includes the critical path, which we have spent some time on already.

Are there other comments on the terms of reference, critical path, timeliness? I think I'm hearing you say that we're probably close to adoption here under the consideration that, you know, we want to do the work carefully and thoroughly, that we would be cognizant of the time of season that we're in, July-August, and also with the option that the committee has to do a second round if they so choose.

Ms Kryczka: Would it be helpful maybe during our coffee break or lunch break, if we know what our personal commitments are for family vacations for the summer, to just let Karen or yourself know what they are and have a look at, you know, what the outcome might be in terms of committee member availability over these two months? Reference has been made to it from time to time.

I'm not saying that it's cut in stone. I don't know exactly how long or when, but I have a pretty good idea, and maybe it will work out really well that we've always got six members, you know, that can come to a presentation meeting.

10:20

The Chair: Well, certainly we're going to do our best to make sure every member is able to come, but it may be that sometimes some of us won't be able to make it.

You all brought your calendars today; did you not? That is an item on the agenda later today. We may not be able to calendar the whole next five months, four months today, so Karen's point is well made. You know, if members want to send to us the dates in the next two or three weeks when they're not available, that would be very helpful also.

Mr. Broda: Just a further comment. A lot of things have been discussed. We're presuming that there's going to be an abundance of presentations. We don't know how many presentations we're going to get, so I think we have to continue on the basis that we're going. We're presuming that we're going to have a whole bunch of them. We may be surprised to find out – the act is not an act that we're creating today; it's an act that's in place already. There may be only certain segments that these individuals may be concerned with.

So we may find the time period that we're looking at will be totally skewed, totally out of whack, but then it could also mean more. I think that we have a time frame that we set. If we can do it by November, great. If we can't, we have the option of continuing till January. That's important to notice too.

How many public presentations are we going to have? I know that personally in my own constituency I haven't had one call on the Health Information Act. There will be special groups, organizations that have issue with it, and I believe that we have to listen to all presentations. We'll see as we proceed.

Let's set out the time frame, and let's have a look and see where we're going from here.

The Chair: Thank you, Dave. Good points.

Okay. Catarina, on the terms of reference we've now had our discussion on timeliness, critical path. Is there anything else you want to add in conjunction with the terms of reference before I ask the committee's approval on the terms of reference?

Ms Versaevel: Yes, please. I'd like to suggest that item 3, Proposed Timelines for the Review, indeed for consideration be the critical path, not the timelines in here. As I mentioned, these are now the proposed timelines for your review.

The Chair: So you'd like that to be inserted into the terms of reference?

Ms Versaevel: Yes. To replace item 3.

The Chair: Okay.

Any discussion or questions from the committee on that suggestion?

Mr. Goudreau: Well, Mr. Chairman, if I understand, then, our discussion in view of what everybody has said, including what Louise has said, I'm under the impression now that we would try to conclude as much as possible in the end of November or early December sometime, using that time frame.

The Chair: That would be our goal.

Mr. Goudreau: Recognizing the fact that the number of presentations may skew those dates and recognizing the fact that we might have to engage in a second round of consultations, and that might stretch things out.

So I'm in favour of accepting the critical path with the idea of maybe concluding sometime in November or early December.

The Chair: All right. Thank you.

Catarina, anything else on the terms of reference that you need to bring to the committee's attention?

Ms Versaevel: No. Thank you.

The Chair: Okay. What I need here is a motion to adopt the terms of reference as have been discussed and amended.

Mr. Broda: So moved.

The Chair: All right. Questions? Yes, Heather.

Ms Veale: Thank you, Mr. Chairman. Just a very minor point that I wanted to raise. On the last page under point 4, Committee Structure, I would ask that the last paragraph be amended to reflect that the technical resource team will also include professional support from Alberta Justice.

The Chair: Okay. Is that okay with everyone?

Some Hon. Members: Sure.

The Chair: Good point. Sorry. Today we've been leaving you out of everything. No intention.

All right. On the motion as supplemented, all in favour say aye.

Some Hon. Members: Aye.

The Chair: Opposed, please say no.

An Hon. Member: No.

The Chair: Carried.

Would you like to take a quick break now before we proceed? Okay. We'll break for 10.

[The committee adjourned from 10:25 a.m. to 10:41 a.m.]

The Chair: I will call the committee back to order. I'm going to ask your indulgence to switch items 8 and 9 on the agenda, to do item 9 now, because it sort of ties in with the discussion we've been holding, and then item 8 later. Anybody have serious objections to that? Okay.

Item 9 is Draft Communication Plan. As you may have noticed, Rhonda Sorensen is unable to be here today. She is our communications officer. We do need to proceed, though, and go forward, so I'm going to ask Karen if she will introduce the communication plan and answer your questions if you have any. Karen, would you please do that for us?

Mrs. Sawchuk: Thank you, Mr. Chair. What Rhonda had done was she had generally followed what had been done with the FOIP committee, only because of the same type of notification requirements. We asked that she follow the same type of notification requirements.

The draft communication plan sets out a number of different ways of providing information to the general public. The biggest item, of course, is the advertising, and that's the largest portion of our budget as a whole. Now, the advertising that she proposed and that she based her numbers on was to provide an ad that would run one time in all weekly and daily newspapers in Alberta, so the dollar figure that's shown there reflects that.

The other thing, one of the other items that the committee just discussed previously, had to do with how stakeholders are going to be notified, how they're going to receive their copies of the consultation guide. The ad itself will invite the public to contact our office. We'll forward a copy of the consultation guide to them. It will also be on the web site. They can access it there.

There will be a direct notification to stakeholders that have already been identified. They're already involved in the process. They're aware of it. We'll be sending out a letter under the signature of the chair with a copy of the consultation guide with the same type of thing, "Please forward the completed document" – there's usually a questionnaire attached – "back to the committee's offices," and it'll go from there.

There's some other, you know, general information in the draft communication plan. I don't know whether members had a chance to look at it, but there were suggestions that there be news releases periodically throughout the committee's tenure just so that people would be aware of what had been done. Say that if we hit a point where we've issued a preliminary report, that kind of thing, then a press release would be done. I guess about the only other really key thing is that the chair would be identified as the spokesperson for the committee.

I believe that's it, Mr. Chairman, unless there are some questions.

The Chair: There are. Thomas.

Mr. Lukaszuk: Thank you, Mr. Chair. Any consideration to have some kind of a leaflet, flyer, poster in places where health care is being provided so it would notify your average Albertan who is in touch with the health system?

Mrs. Sawchuk: Mr. Chair, that's definitely something that could be done in-house. We have the capabilities of doing that, and I guess then we could look at circulation through Alberta Health and Wellness, through their offices too. They'd be aware of who the primary points of contact would be.

The Chair: I think that's a good suggestion.

Thank you, Thomas.

Mr. Goudreau: Just following up on that, even the ad that's going to be placed in the papers could be made as a poster-size type of presentation and actually posted in all the doctors' offices.

Ms Kryczka: Is the fact sheet that's over on your last page for $1,000 maximum the same sort of thing that Thomas was referring to?

The Chair: Karen.

Mrs. Sawchuk: Thank you. If I remember correctly, Mr. Chair – and I could stand to be corrected on this – it would be one page like this as opposed to poster size, and it would highlight the key areas, once the committee's gone through the consultation guide, that the review is going to be addressing just so that people would be aware of that.

The Chair: Thank you, Karen.

Hector, did we cover your point? Did you get a sufficient response to that?

Mr. Goudreau: Well, it appeared that it's a good idea. I'm making assumptions that it's going to be followed up.

The Chair: There is an example of the ad on a page in your document.

Okay. Do we have other questions? If there are no further questions, we do need to adopt the communication plan by motion.

Mr. Broda: So moved.

The Chair: Thank you, Dave.

Any questions? Okay. All in favour, say aye.

Hon. Members: Aye.

The Chair: Opposed, say no. Carried.

Moving right along, we will now go back to item 8 on the agenda, Further Review of the Health Information Act. Catarina, I would ask you to address any other items you may have on this subject to the committee, please.

Ms Versaevel: Thank you. In thinking about the orientation content that we presented last week, we thought it might be an idea to just spend a short time and focus more on a review of the Health Information Act itself, just discuss again briefly the parts of the act to make the act and its content more familiar to the select committee. We thought, indeed, that might be helpful prior to tabling the draft discussion guide for your review. So this isn't a long item by way of standing up and doing a formal presentation but, rather, just an overview again of the act and to familiarize the committee with parts of the act.

I believe people have their Health Information Act. It was in the binder or distributed last week. Do people have that?

The Chair: Sorry, Catarina; we were talking here and missed your last suggestion.

Ms Versaevel: I was just suggesting that people might want to pull out their Health Information Act, and then I'll walk them through by way of a general review again of the act itself.

As we discussed last week, the act is intended to strike that appropriate balance between protecting the privacy of the individual and the confidentiality of the individual's health information, to balance that with the ability to enable the custodian to share health information in the interest of improving care for the individual and managing the health system. So the act is indeed about striking that appropriate balance.

As you review the act more and more as the review here is conducted, you'll see many parts of the FOIP Act, certainly in terms of the structure of the legislation, the terms that are used in the legislation, and many of the objectives in terms of access as well as privacy protection. But the Health Information Act is indeed more about enabling information to be shared for patient care and managing the health system as well as the important purpose of protecting privacy of the individual and confidentiality of their information, whereas FOIP is about many things as well, including a focus on enabling the individual to access their own information.

10:50

This Health Information Act is often called, in terms of consent at least, exception-based legislation. It requires consent up front, but it includes many exceptions to consent that we highlighted last week in section 35. As the review is conducted, you will likely hear in terms of submissions comments on section 35 of the Health Information Act. Those are the discretionary disclosures without consent. So the act approaches many of its provisions by putting general prohibitions forward and then puts forward stated exceptions to those prohibitions, and consent is the most significant but only one example of that.

So we've got many parts to the act, and I'd just like to walk us through those parts in a little bit more detail than we did last week. Last week we talked, certainly, about the content of the Health Information Act, but we also talked a lot about the context: what has changed in the environment from the time the Health Information Act was introduced and put into effect to now, when we're conducting the review.

Part 1 of the act speaks to the introductory matters, so it has basically a whole range of definitions, and in the consultation guide, which we'll walk through shortly, we talk about some of those definitions. This part of the act talks about the purposes, and the purposes of the act we spoke of last week as well, and those purposes are on page 12. Those purposes are very significant because those purposes basically speak to all the rules that follow, meaning the rules that follow reflect the purposes of this legislation.

Part 1 of the act talks about who is subject to the act. As we've mentioned, we've got terms like "custodians" and "affiliates." The custodians – i.e., the entities subject to the act – are primarily entities engaged in delivering health care that are publicly funded, including pharmacists and pharmacies regardless of how they are funded. So we've got the minister, we've got Alberta Health and Wellness, we've got the Alberta Cancer Board, regional health authorities, and health providers that are paid for under the Alberta health care insurance plan – those are all examples of custodians that are subject to the Health Information Act – as well as affiliates.

Again, submissions likely will speak to the term "affiliates" and raise some questions on affiliates. Basically, all that term means is that it's somebody that's employed by a custodian or it's somebody that volunteers within a custodian organization or has a contract with a custodian organization or it's "a health services provider who has the right to admit and treat patients at a hospital."

So, again, when we talk about who, we're talking primarily about people who provide health services to the individual, and they're part of the publicly funded health sector, including pharmacies and pharmacists.

Part 1 of the act also talks about the what. What kind of information is the act referring to? It's talking about diagnostic, treatment, and care information, that information that is the most sensitive information about us as individuals. It talks about registration information, which is basically demographic information, and health services provider information, which is covered in a really limited way.

The focus of the act is on recorded, not nonrecorded but on recorded, health information, although there are a few rules in the act that speak to protecting the confidentiality of information that isn't contained in a record. The Health Information Act in the initial part also defines what the record is.

So basically that's the first part of the act. It's a series of definitions; it's purpose statements. The definitions certainly speak to the scope of the legislation.

Likely scope of the Health Information Act, which part 1 of the act speaks to, is going to be one of the more critical issues that the review will speak to partly because the select committee is mandated in the act to review the scope of the legislation. So any changes that result from your recommendations on scope likely would find their way into part 1 of the legislation.

Part 2 of the act, which is on page 13 of the Health Information Act, talks about the individual's right to access their own information. As we've mentioned, that part of the act is very similar to how FOIP describes the right of access and correction provisions. The right of access to the individual's own information is limited to information about themselves. Obviously, if there's information about a third party in the individual's file, the individual doesn't get the right of access to that information. The right of access is talking about our own information about our own health.

This part of the act says that an individual's request for access to their own information has to be responded to by the custodian within 30 days, and it's subject to limited and specific exceptions. Those two you'll find in part 2 of the act.

Mr. Broda: Could you explain third party? What would third party entail?

Ms Versaevel: Third party would entail several examples. I'll ask Wendy to bring some examples to the fore.

Ms Robillard: In terms of health information, information about a third party that might be in somebody's record could be health information about their family; for instance, my father had the same health condition I have, or my child has the same health condition I have, or I have a family history of diabetes.

Ms Versaevel: To the requests for correction as well as access requests the act requires the custodian to respond in a timely way, and it puts prescribed rules forward as to how to do that.

Some of the custodians that are subject to the Health Information Act also continue to be public bodies under FOIP, so this part of the act also treats access requests or correction requests under one act as valid requests under the other act to minimize the administrative burden for those public bodies that are also caught under FOIP.

Again, we're not expecting that there are going to be a lot of issues with the provisions, meaning that we don't expect you're going to hear from stakeholders raising issues on the individual's right to access. That doesn't mean that there will not be questions, and it doesn't mean that there will not be debate, but it's not expected that there will be amendments put forward for part 2. There may be. It's hard to know what people are going to put forward, but in dialogue with people we certainly don't hear issues on part 2.

The challenge to the committee in part 2 is not with what is here but what is not here in terms of access to one's own health information when we further implement and roll out the electronic health record. Then what does custody, having information in the custodian's custody or under the custodian's care, mean within the electronic health record? That issue likely will come up and will likely need to be grappled with as part of the review of part 2.

Part 3 of the Health Information Act is about collection of health information, and that starts on page 21.

The Chair: Excuse me, Catarina. I think we have a question. Perhaps it's on what's already been said, so maybe we could interject here. Dr. Pannu.

Dr. Pannu: Yes. The question is regarding an individual's access to his or her own health record. Does the act specify that such access will be free of any cost to the individual?

11:00

Ms Versaevel: No. The act, indeed, in the regulations speaks to fees that can be prescribed. I'll ask Wendy to speak to that and also to let you know some of the questions that we've heard on the schedule and the link with the College of Physicians and Surgeons.

Ms Robillard: Yes. The fees that are addressed in the regulations of the act go into a fair amount of detail in relation to reproducing the various types of health records that might exist; for instance, anything from photographs to films to X-rays, et cetera. So there are costs for each of those.

The fees set in the act are in fact maximum amounts, so custodians can choose to apply the fees or not to apply the fees. As well, individuals can request a waiver of the fees, so a custodian can waive fees for various reasons. The commissioner also has some power to address the issue of fees if individuals raise concerns.

The Chair: Is that okay, Dr. Pannu?

Any other questions to this point? Very good. We do have a question.

Ms Kryczka: Maybe I should ask this now. I haven't read through this in detail, but does it state that an individual has to be, say, 18 or any particular age in order to be able to request information from a custodian?

Ms Versaevel: That is spoken of later on in the act, but again I'll ask Wendy to respond to that for you.

Ms Robillard: The act does not set any specific age for an individual to be able to request access to the record. It would be up to the custodian the request was made to in terms of how they would deal with that kind of a request. So, again, for an adolescent who's participating in their own health care, making their own health decisions, I assume that they would then provide them access. Obviously, when it gets to a younger child, there may be some consideration about engaging the family. It's very discretionary.

The Chair: Thank you, Karen.

Dr. Pannu.

Dr. Pannu: Thank you, Mr. Chairman. Just a supplementary question that I asked earlier. A few examples on costs involved in having access. If I were to have a peek at my own hospital chart, what would be the cost? If I needed photocopies, what would be the per-page cost?

Ms Robillard: Okay. The schedule, which is in the regulations, addresses the fees for copying. Photocopies, hard-copy laser printouts, and computer printouts are 25 cents per page, so it's calculated at 25 cents a page. If it exceeds $5, then only the amounts that exceed $5 can be charged. So it's an actual cost.

In terms of viewing your records, there are fees that can apply to an individual who is looking at their records. So there is supervision time applied to that. Again, those costs are maximums and discretionary. Individuals can ask to review their record and then proceed to identify pages that they want photocopied, but there could be a charge for supervising the viewing of the record as well.

Dr. Pannu: I had a specific question about my hospital chart. If I were to look at that, what would the cost be?

Ms Robillard: These costs apply whether they're your records in a hospital, in a physician's office, or elsewhere.

Dr. Pannu: Okay. So there's no flat fee to look at them. Or is there?

Ms Gallant: If I may. Yes, there can be a flat fee charged of $25 to process the record. So they may choose to waive that fee, but they may also choose to levy it. Then the first 20 pages, as Wendy has explained, would be free of charge because that's the first $5. Then after that, the 25 cents a page would kick in again.

Dr. Pannu: Is the schedule of fees publicly available?

Ms Gallant: Yes. It's here in your act, Dr. Pannu, on page 8 of the regulations.

The Chair: We're just a little bit ahead of where Catarina was.

Catarina, we sort of got ahead of ourselves here, but why don't you proceed? Then if we get to that point and there are more questions, we can take them.

Ms Versaevel: Thank you. So part 3 of the Health Information Act provides the rules for the collection of health information. It starts on page 21 by stating that no custodian may collect health information except in accordance with the provisions that are in this act. However, it's important again to bear in mind with this legislation that it is primarily about information that identifies us, information where our identity can be readily ascertained. So collection, use, and disclosure of nonidentifying information, where identity cannot be readily ascertained: the custodian may collect, use, or disclose that information for any purpose. This act is obviously about protecting privacy of the individual and confidentiality of their own health information.

So this act says to the custodian, "You may collect information that is identifying," meaning if the collection of that information is expressly authorized by an enactment of Alberta or Canada or it relates directly to an authorized purpose that is listed in the Health Information Act. That's in section 27.

Section 27, again, is another provision that will be a provision that becomes more and more familiar to the select committee because any change in the scope of the Health Information Act that the committee puts forward as a recommendation – and scope issues are in part 1 – likely would require a consideration of the authorized purposes under section 27, bearing in mind, again, that the act takes as its premise that the custodians within the publicly funded health sector have mandated roles to perform both in terms of patient care and some custodians in terms of management of the health system.

Those uses in part 4, section 27, speak to the custodian's mandate to perform and to use information to provide patient care, to manage the health system in the instance of some entities. Once one starts to change the controlled arena, those custodians within the publicly funded health sector, and add, let's say, private-sector health entities or potentially another government department, then one would need to take a critical look again at the authorized uses in section 27, which obviously would impact the collection rule here as well.

This part of the act also speaks to the collection of the personal health number. The collection of the personal health number is seen as a critical privacy issue for individuals, so only custodians and persons authorized by the regulation have a right to require an individual to provide their personal health number. That's seen as a very important number because it identifies us. It's a key to other information about us, so there is strong protection on who has the right to require an individual to provide their PHN.

When the initial committee that provided advice to the minister on the provisions in this Health Information Act looked at the PHN, they heard that some individuals, because they don't have other types of identification, were required to produce their PHN for other identification purposes. That certainly fed into the need to make the protection and the right to require an individual to provide that information very clear in the act.

Part 3 also says that a custodian has to collect the information directly from you and me as individuals as subject of that information. But on page 22 there is a list of other circumstances where a custodian may collect information from someone else other than the individual. The obvious one is if I as an individual authorize someone else, that information may be collected from them, or if it would compromise the safety of another individual or if it could result in the collection of incorrect information. There are several exceptions or circumstances where information could be collected from other than the subject individual themself. So that's also an important provision.

Again, we have not heard, at least within the department, issues related directly to the collection of health information. The commissioner's office may have, but it's not been a part of the act that's been subject to debate or concern that we have heard of to date.

11:10

Part 4 of the act is about use. So we've got collection; then we move to use. After use we move to disclosure. Like with collection the act places a prohibition on use. It says that no custodian shall use health information about us except in accordance with the Health Information Act. Again, if it's nonidentifying, if our identity cannot be readily ascertained, then a custodian may use nonidentifying information for any purpose.

Section 27 is listed on page 24, and this provision says that a custodian may use information that identifies us, information in the custodian's "custody or under its control for the following purposes," and these purposes reflect the mandated roles that custodians generally have within the publicly funded health system. Custodians generally, using physicians as an example, provide health services to us as individuals. Information about us can be used to determine or to verify our eligibility to receive a health service. Information about us can be used to conduct investigations and for discipline proceedings or inspections that are related to a health profession or health discipline.

Again, keep in mind, when we look at this provision, that collection, use, and disclosure rules that I'm highlighting for you are all subject to the overriding principles that the custodian has to use: the least amount of information at the highest level of anonymity – except when we're talking about care and treatment to the individual; then anonymity is not seen in quite the same way – and need to know.

There are other duties and obligations, which we'll highlight, in part 6. Although this provision says that you may use without consent, it is subject to those overriding principles as well as duties and obligations in part 6 that restrict the free flow of information. It's not that information can just flow. Even though it may be used without consent, there are other restrictions.

Another authorized use is conducting research. Research has a specific section and is subject to ethics review and to issues of consent, unless the ethics committee considers that the scientific benefit outweighs, and other considerations where consent may not be appropriate. So research is certainly a critical area in the act.

Another use is providing health services provider education, again keeping in mind least amount and highest level of anonymity, carrying out a purpose that's authorized by an enactment of Alberta or Canada, or for internal management purposes. Again, a custodian likely to do planning or resource allocation: it would be a unique circumstance where a custodian would need identifying information about us in order to do that, and that's where the least amount at the highest level of anonymity comes into play.

Section 27(2) talks about those custodians that have a health system role like the minister or the Department of Alberta Health and Wellness or regional health authorities. They have broader responsibility in terms of health system management than the individual custodian, like a physician. So 27(2) speaks about those and provides further uses like planning and resource allocation, health system management, public health surveillance, and health policy development.

This section also speaks to, as do collection and use and disclosure provisions, that if a custodian collects information about an individual that's not recorded, meaning that it's not written, not photographed, not recorded in any way, they still have a responsibility to only use that information for the purpose that it was provided to

them. So there is a confidentiality expectation. Although this act doesn't speak to the nurse riding up the elevator talking to other nurses and speak to the verbal exchange, it does speak to an expectation of confidentiality of that information.

I know this is very dry. It's hard to make it exciting. As I walk you through the provisions, I just want to highlight what's in here so that when we get to the consultation guide, why we're focusing in on certain issues in the guide is more clear. I feel I should be telling you jokes or something. It's dull, I know. Maybe, Wendy, you could do the jokes.

Ms Robillard: Thank you.

The Chair: Maybe not at this point.

Ms Versaevel: Okay.

Part 5 of the act speaks to disclosure of health information, and the starting point within part 5 for disclosing health information to someone else is the need for consent of the individual who is the subject of the information. So it's consent-based legislation for disclosure with exceptions, and those exceptions are in section 35.

Section 34 on page 26 highlights what consent within the context of the Health Information Act means. Consent means that there has to be authorization to disclose the health information, and the purpose needs to be clear, the identity of whom the health information is being disclosed needs to be clear, and an acknowledgment needs to be there that the individual who is providing consent has been made aware of the reasons why the health information is needed and the risks and benefits of consenting or refusing to consent. Consent isn't just a word. Consent has an onus associated with it. As well, the date the consent is effective and the date, if any, on which the consent expires. Another critical component of consent, of course, is that you can revoke it. You can say, "I consented, but I revoke the consent," at any time. Consent or somebody revoking consent has to be in writing or provided electronically. So the consent provisions and what constitutes consent is what you see in sections 32, 33, and 34.

Provision in section 35 on page 27 lists those exceptions where a custodian may disclose diagnostic treatment and care information about us without our consent, again subject to all those overriding constraints and all the other duties and obligations that restrict the free flow of information. The listing of these exceptions where disclosure may occur without consent codify practice that was in existence at the time the Health Information Act was put into place.

In putting this legislation forward, there were questions on the long list, because it is a list that goes on. You can turn a page, and there are other exceptions. All of these exceptions were certainly vetted and debated. They speak to disclosure to police when investigating a life-threatening personal injury. They speak to complying with a subpoena, warrant, or court order. They speak to being able to disclose to another custodian for authorized purposes or to a person who's providing us with continuing care and treatment, to family members when we're in a hospital as to the location and prognosis as long as that isn't contrary to the express request of an individual. So several exceptions are listed there to the consent requirement in section 35.

11:20

On page 30 there is also a reference to "disclosure of health services provider information." As you'll see when we go through the draft discussion guide, health service provider information is protected in a very limited way in the Health Information Act. It's talking primarily about business card information. The rules primarily are there noting when health service provider information is linked to information about us as patients. We'll talk more about that when we go through the consultation guide. The act is primarily about identifying health information about us as individuals, but there are rules that speak to health service provider information, although the reader of this legislation would be referring to other enactments and statutes to look for disclosure rules on health service provider information.

Section 39 of the act speaks to disclosure by the minister and the department. It says that the minister or the department may disclose information about us, again without our consent, "for the purpose of developing public policy," again subject to all those overriding principles and other duties and obligations.

Section 40 is another minister provision, that a custodian other than the minister may disclose identifying information to the minister without consent if that information "is necessary or desirable in the opinion of the custodian to enable the Minister to carry out [their] duties." So those are also important provisions in this part of the act.

The act also says, which is an important provision for the individual, that they will be able to find out where the custodian sends information about them, so to keep a note. That doesn't mean that there has to be a special form but a note in the file. When a custodian is disclosing a record that contains identifying treatment information about us, they need to make a note of where they send it, not when they're dealing with care and treatment but other types of disclosures, and the date and the purpose and the description of the information. In the EHR that's going to involve an audit log type of capability as well.

Section 42 is another important provision to highlight for you. This act does not say to an entity, a person, an individual that is not a custodian, except in very few instances, what you should do with personal health information. If personal health information is in the custody or under the control of an entity that's not a custodian, this act does not govern that information, except that in a very few instances this act talks about any person. But this provision says that if I as a custodian that is subject to this act disclose information to a recipient – i. e., not a custodian – then I have to tell them "in writing of the purpose of the disclosure and the authority under which the disclosure is made." That provision was intended to put an onus on that recipient, to say, "Look; I've given it to you for this purpose; I have the authority to do so." Clearly, this act doesn't limit that recipient, but it does make them very clear on why they have that information.

The Chair: Catarina, we do have a question, if we could pause.

Thomas.

Mr. Lukaszuk: Thank you, Mr. Chairman. As a point of personal interest under the section "disclosure of diagnostic, treatment and care information," section 35(1)(i) and (j): in view of the newly legislated Blood Samples Act, are they going to be struck, or are they going to be amended? As they read right now, they would be ultra vires.

Ms Robillard: In section 35(1)(p), Thomas, if you'll go to that on the top of page 29, it says that if the disclosure is authorized or required by another enactment, it can be disclosed as well under this piece of legislation. So if any other piece of legislation is amended requiring a disclosure, this will work in concert with that.

Mr. Lukaszuk: Except, Mr. Chairman, that subsection (j) says "if the disclosure is not contrary to the express request of the individual."

Ms Robillard: Subsection (p), however, doesn't say that.

Mr. Lukaszuk: Overriding?

Ms Robillard: Yeah. Subsection (p).

The Chair: Other questions to this point?
Catarina.

Ms Versaevel: On page 33 those provisions speak to disclosure for health system purposes and speak to the minister's or the department's ability to "request another custodian to disclose individually identifying health information for any of the purposes [that are] in section 27(2). It puts a limit that disclosures for those purposes have to be enabled by "an enactment of Alberta or Canada" or a PIA needs to be submitted. So it speaks to the importance of disclosure for health system purposes, but it again puts forward that there has to be authority or there needs to be a PIA. Health system management purposes again are seen as a critical purpose in terms of management of the health system and have to be balanced with the privacy protection issues of the individual.

By the way, as I'm going through this, Roseanne, Wendy, Noela, if you have anything that you want to add as a highlight, please do. Anything there you want to hide? Hide or add? A very Freudian slip, but I thought I'd acknowledge it; I'm being transparent about it.

The Chair: We do have a question. Okay, Dr. Pannu.

Dr. Pannu: Just to provide some relief, Mr. Chairman, I have a case that was brought to my attention concerning disclosure of individual information with the consent of the individual. This situation that I'm going to describe becomes sort of a catch-22 kind of situation. I wonder if the existing legislation provides any safeguards against individuals finding themselves in that kind of situation.

Here is the case. A 36-year-old Albertan applying for a job as a truck driver was asked to sign a form authorizing the bearer to access all past medical records in order to determine his fitness for a job. When he requested that the prospective employer fill in a specific name for the individual or company and limit access to his entire medical record by asking his physician only for information relevant to safely performing his job, he was told that the company had lots of applicants and that if he wasn't prepared to sign the form, not to bother applying. Now, that's a real case that was brought to my attention. Is there a safeguard and a protection in the provisions of this act as it currently exists against something like this happening?

Ms Versaevel: I'll ask Wendy to speak to that.

Ms Robillard: Even on the basis of a consent to disclosure the requirements of the legislation would require the custodian to consider the least amount based on the need to know. So even if a custodian, presumably in this case a physician, were to receive this type of a consent form, it would only authorize them to disclose that which they felt needed to be disclosed, for employment fitness purposes presumably.

Dr. Pannu: But there's nothing in the act to oblige a prospective employer from asking more than the minimum information required for a job application?

Ms Robillard: No, I don't believe the Health Information Act speaks to that. I'm not sure, however, if other legislation does.

Dr. Pannu: Okay.

Ms Versaevel: Roseanne, did you have a further comment?

11:30

Ms Gallant: Noela may as well. I guess I concur with Wendy that the act, as both Catarina and Wendy have pointed out, addresses custodians and affiliates, and the employer in this particular scenario that you've highlighted would not be covered by the act. So, no.

Ms Versaevel: Division 3 of the Health Information Act talks about disclosure for research purposes. Research, because of its significance, has been placed in this section and has been focused on specifically. Generally, these provisions say that health information may be disclosed for research as long as an ethics committee has reviewed the research proposal from a number of perspectives, including the need for consent, and the researcher enters into an agreement with the custodian.

Both Wendy and Roseanne have had a lot of experience with these provisions and with the research community, so perhaps in terms of the provisions that are here, you may wish to highlight a bit more in terms of the provisions for research for the committee.

Ms Robillard: Go ahead.

Ms Gallant: Okay. Sure. Just to perhaps walk you through this particular provision a little bit more, certainly the idea within here is that the obligation for the review of proposals that deal with disclosure of identifying health information is really left with the ethics committee. I suppose that's the principle that will be important for the committee, that it really is the REBs. There are six designated committees in this province, which is found in the designation regulation of this particular act, that have the responsibility to review ethics proposals when researchers come forward asking for disclosure of health information from custodians. So those particular provisions, then, of course, are covered under 50(1) through (4).

Application for disclosure of health information. Should they receive an approval from an REB, that is the time, then, that they can go forward and make a request to a custodian for that health information. They cannot ask before that. So they must do so in writing and make their application once they have been to REB.

If the custodian chooses to provide – and that's the other important provision here, that custodians have the discretion to disclose health information to researchers. So although they may have their appropriate approvals from a research ethics board, an approved one, a custodian does not necessarily have to turn over health information. Should they choose to do so, then they would, as Catarina has mentioned, enter into an agreement between the custodian and the researcher. As well, they must impose any conditions that the REB may have put on the researcher, and they may impose others as well.

So a quick example, of course, would be in the area of consent. They cannot of course take away a higher standard that an REB would have imposed. If the research ethics board has said that they must obtain consent, then the custodian, if they choose to acknowledge the request for application of health information, would have to impose that. Yes, you must get consent.

If the REB has waived consent, the custodian still has the ability to impose consent. So they can impose a higher standard if necessary.

The Chair: We have two questions to this point. Karen and then Dr. Pannu.

Ms Kryczka: There's maybe one piece I missed in your explanation. It talks about research. I'm just looking. Is there a definition of researcher, for instance, types of research work, an individual, a particular body in an organization?

Another question I had was: who is this ethics committee? Who appoints them, et cetera, and the process of appeal?

Then you were talking about REB. I'm sorry; I wasn't listening to your explanation there for a minute or so, so maybe I've missed something there.

Ms Gallant: The first part: is there a definition for researcher? No, there isn't, but there's a definition for "research." So "academic, applied or scientific" research is what's meant by application for research, but anyone could be a researcher, including custodians. So physicians can certainly wear two hats. They can be a physician and a custodian under the act, and they can also be doing research.

Ms Kryczka: I'm thinking of something specific. Maybe it'll come up later, and I won't disclose it now.

Ms Gallant: Okay. Then maybe to answer your question about the designated boards, which I referred to as well interchangeably as research ethics committees or within this act as just ethics committees, they're listed under the designation regulations in here. The designation regulations are right after all of the sections of the act, and they list the six committees. For the purposes of this act there are six that have been designated.

Maybe Catarina wants to speak to the original designation of those committees.

Ms Versaevel: Yes. The process for arriving at the listing of designated research ethics committees that Roseanne has highlighted came through consultation with the research community in the province. What was very clear as criteria was that not just any research body should be designated as a research ethics committee given the significance of the role. So a long and detailed process was gone through in order to arrive at that list.

Ms Kryczka: Is the process to arrive at this committee connected to, say, the minister of health, or is there a disconnect?

Ms Versaevel: I would suggest that there is a connect in the sense that those are listed in the health information regulation.

The Chair: Dr. Pannu.

Dr. Pannu: Thank you, Mr. Chairman. My question is regarding the standard of consent that you were referring to. As I understood you – and correct me if I'm wrong – the custodian is the one who either consents to disclosure or not, not the individual about whom the information is likely to be used for research purposes. When you talked about the custodian having the power to impose a higher level of consent, whose consent? Who is to give consent?

Ms Gallant: Oh, yes. It would continue to be the subject's consent. When the research ethics board is considering consent, they're considering whether the individual whom the information is about will need to provide consent for the disclosure of that health information. So the subject themselves, yes, the individual, you and I.

Dr. Pannu: Yes, but the custodian has the discretion whether or not to impose that condition.

Ms Gallant: If the research ethics board has said that consent will be obtained, they cannot waive consent. They must ensure that the researcher obtains the consent.

In the reverse of that scenario if the research ethics board in their consideration waives consent – and on some occasions they do. If the database that the researcher is looking for is, perhaps, of deceased individuals, for instance a mortality study, they may then choose to waive consent. The custodian, though, has the ability to say: well, I'll consider that the REB has waived consent, but I believe that you should still obtain consent from individuals. Most likely not in the mortality study, not in that example, but there are other examples. Is that clear? Is that okay?

Dr. Pannu: I understand. Mr. Chairman, for our own benefit I just want to add to this that the research councils that grant money for research, our national granting agencies, require researchers who are based in universities, for example, to obviously get their research proposals through ethics committee reviews both at the departmental and faculty levels and then at the top level of the university. But always the researchers, even when they have the clearance, when they're doing the study, still are obliged to ask each subject whether or not he or she agrees to disclosing the information that they're asked. If the individual subject, regardless of what the ethics committee has said, says, "I'm not willing to share this information with you," then the researcher accepts that, but the researchers are obliged in every case to ask if they are willing to part with the information that they're being requested to.

11:40

Ms Robillard: I would just like to make a clarification there. As a large custodian organization that discloses a lot of information, researchers are not required to obtain consent. They may choose to obtain consent, and there are two forms of consent they may choose to obtain. One is a consent to participate, which is not the same as a consent to disclose health information. They may be combined, but they're not always. If the researcher chooses not to go the consent route and the research ethics board agrees, as Roseanne has stated, then consent may not be required. As a third step, a custodian may impose the consent. Again, there's much research that goes on in the province of Alberta using health information that's not consent-based. I want to be clear about that.

Secondly, there's another form of consent that the act talks about, and that's if a researcher wants to identify a study population and contact them but they have no way of identifying the participants. So they want 35-year-old women who have given birth to twins, for instance. They might not know how to contact them, so they could come to a custodian organization such as ours. If we had that information, we could consider it. Section 55 would require us to obtain the consent of those 35-year-old women who had given birth to twins to give their contact information to the researcher so that they could then obtain their consent to participate and disclose health information.

So there are sort of three types of consent and then the various levels of who might impose it, but there is research that goes on without consent, and the act enables that.

The Chair: Thank you.

Roseanne, you want to proceed?

Ms Gallant: I would maybe just say two more things about this particular provision. The next piece is about fees, that indeed the custodian can set costs for preparing information for the purpose of disclosing it for research purposes. I want you to be aware that it's

not to be confused with the fee schedule for access. That's been sometimes misinterpreted over the last few years. It is not the same fee schedule, especially for researchers. So they can set their own costs.

Ms Robillard: And the other point to raise there is that the cost that would be borne onto the researcher cannot exceed the cost of producing the information.

Ms Gallant: Right, of providing the service.

Ms Robillard: So a custodian couldn't use that as a way to generate revenue, for instance.

Ms Gallant: No. That's right.

Then the last protection, really, or ability for the act, I guess, and custodians to ensure that health information is used appropriately for research is the court order provisions in section 56, where it clearly highlights that a "custodian may apply to the Court of Queen's Bench" to inspect a researcher's premises if the researcher has denied them access when they are trying to ensure that compliance with the agreement that they have signed with that researcher is being upheld. So that provision is available to custodians as well.

The Chair: Thank you, Roseanne.

Ms Gallant: You're welcome.

The Chair: Catarina, do you want to go forward?

Ms Versaevel: Yes. There are four more parts of the act that we wish to highlight, three of substance and one that will only require a comment.

The next part of the act is on page 39, part 6, and this part of the act speaks to the duties and powers of custodians, their obligations, basically, to look at confidentiality and privacy. As we've talked about, this is the part of the act which says that custodians must collect, use, and disclose only the least amount of information with the highest degree of anonymity that's possible to achieve the intended purpose. So those overriding principles that I've been mentioning we find in part 6.

Wendy is going to highlight the other provisions in this part to bring this part of the act alive.

Ms Robillard: Right. As Catarina said in her introduction, the obligations on a custodian are not insignificant. We have from time to time received requests from organizations, you know, in the health sector who want to become a custodian because they see it as an avenue to access information, but the obligations on them are significant.

So Catarina already mentioned the first obligation, collection at the highest degree of anonymity possible.

The second one, which is also what we call an overriding principle, is the duty to collect, use, or disclose health information in the most limited manner possible, and that's a very important obligation on the custodian and on all of the affiliates working for that custodian.

So when we're thinking of collecting information in a new way, a new form, we have to ask a lot of questions about what is really required. Then as we talk about how we use information, for instance within the Department of Health and Wellness, we have to think about that use within this limited manner as well when we disclose, whether it's consent based or through one of the exceptions in 35, that we disclose only that which we feel is required. So in all cases it requires one to engage in some level of discussion and around disclosure probably requires you to engage in some level of discussion with the party to whom you're planning to disclose information.

The duty to protect health information, section 60. The words are fairly simple. They are to take reasonable steps to protect health information from an administrative, technical, and physical safeguards perspective. Those reasonable steps change over time, so what was required in terms of technical safeguards three years ago and what's required today are significantly different. We are working hard to grow those expectations broadly within the health sector in terms of keeping people up to speed around administrative, technical, and physical safeguards, everything from, you know, the physical attributes of an office to how people are assigned access into electronic systems and how things are audited and tracked.

In terms of section 61, the duty to ensure the accuracy of the information that is recorded, typically that duty has been placed on custodians for a time prior to the act in fact. Particularly when we're talking about transcribing and we're talking about entering information into databases, there are typically ways built into the database to do checks and verification automatically. So, for instance, birthdates, if they seemed out of line, would prompt a check back to the person inputting the data. So limitations are typically built into systems to do that.

The duty to identify responsible affiliates. Catarina talked about the affiliates being the employees and the people volunteering or on contract with a custodian organization. It is the custodian's responsibility to maintain a listing of its responsible affiliates. That would include even people who were providing contract services for that organization. Then each of those affiliates, of course, must follow the act.

Policies and procedures. Every custodian organization has to establish or adopt policies or procedures around implementation of the act. In some cases organizations create their own. In other cases overarching organizations such as the AMA or the CPSA may establish a template or suggested policies and principles that their members may in fact adopt as their own. They do however have to adopt them as their own, and they can be requested to provide a copy of those.

Catarina talked earlier about privacy impact assessments. This is a big step, and here HIA varies from FOIP in that in the Health Information Act the duty to prepare a privacy impact assessment is a requirement in the act and that that be vetted through the commissioner's office. So when a custodian plans to change an administrative practice or change an information system that collects, uses, and/or discloses health information at an individual level, they must do a privacy impact assessment. That's a way for them to measure the risks and to mitigate as best they can against those risks in the development and building of those systems and to provide that information to a third party for review and consultation.

The Chair: Wendy, could you take a question at this point from Dr. Pannu?

Ms Robillard: Certainly.

11:50

Dr. Pannu: Thank you, Mr. Chairman. My question is about section 61, about the accuracy of information. If an individual finds that the information about her or him is inaccurate and proceeds to get it corrected, is there a cost to the individual for that? I was looking at section 67, which is power to charge fees. There's no specific reference to this kind of situation, so I wonder what the case would be.

Ms Robillard: There are no fees related to a correction or amendment. In fact, in many cases the correction or amendment would be handled just as a matter of a transaction and wouldn't require any more formal process. So, for instance, if you got your personal health card and saw that your date of birth was incorrect on it, you'd simply phone up and have that changed. There would be probably no more detailed interaction that would go on than that.

However, in other cases where individuals may take exception to diagnostic information or some of that type of information, where it is, you know, sort of a medical opinion, then there is a formal process in the act around correction and amendment, so an individual would probably need to make that request in writing. The custodian would respond to it quite formally. There may be a change in what the record reflects, or there may be simply an addendum of the individual's own perspective in regard to that. That would be determined between the custodian and the individual, and again the commissioner's office can review those.

Dr. Pannu: Thank you for information on the process. There are no fees involved in that? Okay. All right.

The Chair: Thank you.

Go ahead, Wendy.

Ms Robillard: Thank you. The power to transform health information simply says that a custodian typically in the health system collects information at an individual level but they can change that information, aggregate it, do other things to create nonidentifying health information, which may then be used for policy consideration, for planning the number of beds required in a regional health authority, number of OR suites, that sort of thing. So it just gives them power to take that information which begins at an individual level and change it into an aggregate level so that it can be used for other purposes.

The concept of the information manager agreement is an interesting one in the act. Certainly in the health system not every custodian provides all of their own services around managing their own information, particularly when it comes to an IT, information technology, or information management perspective. They may in fact contract some of those services out. This section in the act allows an agreement to be struck to allow an information manager to receive individual level information and to manage it on behalf of the custodian but very clearly limits how they can use that information. So the onus still resides with the custodian in regard to the management and any disclosure of that information.

The Chair: We have a question. Inasmuch as we've got a few more to go and it's nearly lunchtime, perhaps after the question we could break for lunch and come back. Would that be acceptable to Catarina and Wendy?

Ms Versaevel: Would it be possible to just finish this part? There's only one other item in this part of the act, and then we can start with part 7 after lunch so at least we finish with this.

The Chair: Very good. All right. We'll take the question.

Ms Kryczka: Okay. My question is really quick. When you were doing 65, Wendy, is that a custodian possibly preparing information for research purposes, for a study for instance?

Ms Robillard: It certainly could be. For instance, the act allows a custodian to disclose nonidentifiable or aggregate information for any purpose. We will sometimes get requests from organizations that are not research organizations and questions that are not research driven but may be of interest to a specific organization. They may want to know the number of certain types of procedures that are performed in Alberta, so we give them a number. We would say that there are, you know, 3,452 of those procedures, but they wouldn't know who they were provided to or for what reason. So, yes, that provision could be used to do that.

Section 67, as Dr. Pannu has already indicated, is the power to charge the fees. The fees are described in the schedule that is attached to the legislation.

Finally, the provisions around data matching, which Catarina has addressed to some extent already. Data matching is simply the process of connecting one set of data to another set of data and creating a broader, larger, more full data product at the end of the day. That has obvious risks when we're talking about individuals and their health information, so the provisions in the act require those custodians entering into data matching to be accountable for how they data match and in many cases to complete a privacy impact assessment and submit that to the commissioner for review and comment before proceeding.

The Chair: Okay. Thank you very much, Catarina, Wendy, Roseanne, and to the committee for its alertness and persistence. We will now give you a break and reconvene after lunch at 1 o'clock.

[The committee adjourned from 11:56 a.m. to 1:02 p.m.]

The Chair: Okay. I will call the committee to order. A couple of housekeeping items I need to refer to. Apparently, I'm not pronouncing all names correctly. I apologize for that. I have a list here of names, and I'm told that this is what you want to be called. This is a formal list, so I'm going back to formal names. It's now Mr., Ms, and Mrs.

Mr. Snelgrove: Not me.

The Chair: Okay. You're the exception. Anybody else want an exception to the rule?

Mr. Broda: I'm plain Dave.

The Chair: You want to be Dave?

Mr. Broda: You bet.

An Hon. Member: First names are nice.

Mr. Broda: Keep with first names.

Mr. Snelgrove: My dad is Mister.

The Chair: Well, I'll try to remember which ones want formal.

Mr. Lougheed: I like the hon. Member for Clover Bar-Fort Saskatchewan.

Mr. Broda: What's better for *Hansard*? I think it has to be by last name; doesn't it?

Mr. Lukaszuk: It doesn't matter. *Hansard* is saying that it doesn't matter.

The Chair: It doesn't matter? Good. It's just your personal preference. Okay?

Now that we've got that important item out of the way, next item. You know, we've been 95 per cent correct on this one, but apparently it's easier for *Hansard* recording if you go through the chair and are recognized by the chair before you speak instead of just jumping in. Okay?

So two very important items, and now we'll go to the real stuff. Catarina, would you please resume on the Health Information Act?

Ms Versaevel: I'd be pleased to. Thank you.

The Chair: And then we'll get into the document itself, which is, you know, one of the important items that we'll be discussing today.

I already broke the rule. Catarina, are you okay with Catarina, or do you want the formal?

Ms Versaevel: I'd like you to try the last. No. I'm joking. I'm very fine with Catarina. The last is very hard to pronounce, and I prefer my first name.

The Chair: Could you guys turn off *Hansard* for a minute or two while we practice?

Ms Versaevel: Catarina is just fine. Thank you.

The Chair: All right. Go ahead.

Ms Versaevel: We are now on part 7 of the Health Information Act, page 46 of the act. This section speaks to the role and powers of the Information and Privacy Commissioner. The commissioner for purposes of FOIP is also the commissioner for purposes of the Health Information Act.

Those of you familiar with the specific provisions of FOIP that address the commissioner's role and powers will see as you work your way through this part of the act that these provisions are virtually identical to those under FOIP. There are a few variations, but they are virtually those provisions in FOIP that speak to the commissioner.

However, I would ask Roseanne or Noela to highlight any provisions in particular that they feel may be of interest to the committee, if there are any.

Ms Inions: Perhaps I'll address that point. As Catarina has mentioned, they're very similar to the FOIP provisions. The one implication I would point out as being quite different is the mandatory duty under HIA to do privacy impact assessments and the specific powers of the commissioner to comment on those privacy impact assessments. I think that's a very significant form of privacy protection and a very proactive step. It's the authority of the commissioner and the duty of the custodian to ensure that those privacy impact assessments are prepared and reviewed and commented upon by the commissioner.

As Catarina has said, the powers are very similar to FOIP powers, and I wouldn't make any further comment unless there are questions.

The Chair: Yes, Ms Blakeman.

Ms Blakeman: Thank you. Is there a particular section that we should be looking at that refers to what you've just outlined?

Ms Inions: Yes. The specific provision that relates to privacy impact assessments is section 84(f), "comment on the implications . . . of privacy impact assessments."

Ms Blakeman: Okay.

Ms Inions: The four provisions where mandatory PIAs, or privacy impact assessments, are required are listed in (f).

The other issue that has arisen is the need and the power for the commissioner to conduct audits. There are some other general provisions in here where that power might be exercised, but that issue might be something that will come into play further down the road for the committee.

The Chair: Thank you.

Hector.

Mr. Goudreau: Thank you, Mr. Chairman. There seems to be a little bit of a discrepancy. I'm just referring to section 74(2), where they talk about "sixty days after the person asking for a review," yet we had talked earlier this morning in section 12 about 30 days. Is there a conflict there?

Ms Inions: I would say no because the earlier section relates to an access request whereas this is a request for a review of the decision of the custodian. So I would see those as being very different situations.

Mr. Goudreau: Okay. Thanks.

The Chair: Ms Versaevel.

Ms Versaevel: Catarina is fine, but thank you so much.

Part 8 of the act is on page 58, and that is the last part of the act that we'll be referencing, meaning specific provisions that we will highlight. The first provision I would like to draw your attention to is section 104 on page 59. This provision addresses the right or the power that is conferred on an individual that can be exercised by someone else.

Basically this is the list of what is generally referred to in most instances as the substitute decision-maker list, but it also speaks to a few other rights. For example, if the individual is 18 years of age or older, then the individual, of course, can exercise any rights or powers contained in this act. Also, "if an individual is under 18 years of age and understands . . . the right or power and the consequences of exercising the right or power," then an individual under the age of 18 can exercise these rights.

1:10

When the Health Information Act was debated and when we were doing interviews with physicians on current health information flow practices, it was clear that this was an issue of some need for debate. Some individuals did question whether someone under the age of 18 would be able to exercise the rights and powers of the individual conferred by this act, meaning that their parents should be able to have the right to access their information, meaning the information of their children under the age of 18.

That's not what this act says, notwithstanding that there's a variation of views in some instances. This act does say that if you're under the age of 18 and you understand the right or power and the consequences of exercising that right or power, then you have the ability to maintain the confidentiality of your own information and other rights that are conferred on the individual.

Section 104 also speaks to: if the individual is deceased, then the rights or powers conferred on an individual can be exercised by the individual's personal representative if it relates to the administration of their estate.

It also speaks to the Dependent Adults Act, so if a guardian or trustee has been appointed, then they may exercise the individual's right or power, though only as it relates to the duties of the custodian or trustee. If someone has been designated under the Personal Directives Act, then by the agent if the directive, again, so authorizes. Also these rights and powers conferred on the individual can be exercised by a power of attorney that's been granted by the individual, "if the individual is a formal patient as defined in the Mental Health Act," and of course by any person who has been given written authorization by the individual to act on their behalf.

There have been a few comments on 104. Requests for amendment may come forward that likely have to do with the need for clarification, not a policy issue but the need for clarification.

The Chair: Could we have a question at this point, Catarina?

Mr. Lukaszuk.

Mr. Lukaszuk: Thank you, Mr. Chairman. Relevant to competence, who determines the competence of a person to make that determination? Would it be the commissioner?

Ms Versaevel: I'll have Noela speak to that. I'm trying to engage everyone.

Ms Inions: Thank you. The question is: who would make that determination of competency? Generally, that's made by the health service provider, by the physician, psychologist; it could be a nurse, whoever is engaged in that interaction. That's the general situation. If there were a disagreement and the issue came before the commissioner, you might need expert evidence and expert opinion to assist in making that determination. By and large that's made on the front lines in the provision of health services.

Mr. Lukaszuk: Thank you.

The Chair: Okay. Thank you.

Ms Versaevel: On page 60 section 105 addresses the issue of immunity from suit, and the act says that "no action lies and no proceeding may be brought against the Crown." In this instance what this provision is speaking of is basically that if a custodian or a person is acting in good faith while carrying out their duties and exercising their powers under the act, then they're immune from suit. They're acting in good faith; it's a good-faith provision.

Section 106 speaks to the protection of the employee.

Again, neither of these provisions, to my knowledge, have raised issues of concern from the custodian community subject to the legislation.

Now, the issue of offences and penalties spoken of in 107 is a critical provision, again, from the individual Albertan's point of view so that they know there are offences and penalties when there is a violation, so to speak, potential in terms of the Health Information Act, and I think last week, Roseanne, you made some reference to this. Penalties under this act are a fine of up to $50,000. As we've talked about, this figure ranges across the provinces with health information legislation in effect.

The other thing to mention here is that in our Health Information Act we speak of a person who contravenes this section of the act, that it's a fine of not more than $50,000. In some health information legislation they differentiate between the person as an individual and a corporation, a company, where you may find higher fines. This act, when it was put into effect – meaning the Legislature – did not differentiate. We have a person who contravenes, and we do not differentiate.

Section 108 of the act speaks to the regulation-making areas that could occur by the Lieutenant Governor in Council. Our health information regulation currently includes in the regulation the boards, councils, committees that are listed as custodians. The regulation also details registration information. It also deals with the listing of persons other than custodians that may require the production of the personal health number.

The regulation, although there's ability to do so, does not have regulations regarding stripping, encoding, or transforming health information. The reason why that has not happened is that the whole technology environment is still shifting, and to put in regulation form rather than in policy those rules for stripping, encoding, transforming did not seem to be appropriate.

So there are several regulation-making abilities included here, including retention, disposal, and archival. Wendy spoke to that at the orientation session last week, that we have not done that. There has been a lot of background work done on retention, storage, and archival with many different record manager experts throughout the province.

The regulation does, however, speak to the administrative, technical, and physical safeguards. That's in 108(1)(h). The regulation, of course, as we've talked about, speaks to fees in relation to access, correction, and amendment. As well, the regulation designating committees as ethics committees is addressed in the regulation.

In the regulation area we have looked at the potential of retention and archival. I think that's the only other regulation area that is still in active review, Wendy, within the department.

The Chair: Catarina, could we pause for a question at this point?

Ms Versaevel: Of course.

Dr. Pannu: Going back to section 105, dealing with immunity from suit, this is quite an important section because it deals with blanket immunity here. What happens in a case where electronic health data may have wrong or erroneous diagnostic information which may pass from one agency, entity, hospital to another and based on that erroneous diagnosis treatment is undertaken which may lead to serious injury and ultimately, perhaps, death in the case of a patient? To provide total immunity from that kind of error in a system would raise a question.

I just wonder if this section needs some closer look or not, because the difficulty with electronic data, as you know, is that it's collected and stored and transferred electronically. The person whose health the data may be about may never get a chance to look at it directly until it's too late. No one writes it again and again, so once it's on record, it simply gets transferred without being re-examined and scrutinized by someone else, hence the potential harm that such errors in transmission or recording of data may cause a patient or individual. It should be open to some sort of compensatory action on that person's part, seeking some sort of damages.

So I'm raising this question for discussion at this stage by the committee, not for today but as something that we should take a closer look at, perhaps.

1:20

The Chair: Well, certainly it could be considered as we go forward, obviously.

Dr. Pannu: Yeah.

The Chair: Okay. Thank you.

Ms Inions: Would you like just a brief comment on that at this time?

The Chair: Sure. Please.

Ms Inions: This is an immunity clause, and when I'd see this arising is in response to litigation. Although it says that you can't bring a suit, it's something done by a person in good faith while carrying out the duties in this act. So it only protects you insofar as it's a good-faith defence, and often this is used as a defence.

There are still other provisions in the act that exist notwithstanding. For example, section 61 creates a duty to ensure that information is accurate before using or disclosing the information. Under section 13 if the individual becomes aware of the error, they can request a correction or amendment, and as was commented earlier, that's usually done without saying if it's an obvious error. Usually, what it requires is for someone to be aware that an error has been made, and then it's just a housekeeping thing. It's not easy, but it's done automatically and as quickly as possible when an error is identified. So this provision does not do away with other duties under the act such as the examples.

The Chair: Thank you, Ms Inions.

Okay; 109.

Ms Versaevel: Section 109 we have spoken to and likely doesn't require further highlighting. It basically speaks to the mandate of the select committee to conduct a comprehensive review of the act.

Part 9, which is the last part of the act, speaks to consequential amendments and paramountcy. As part of the development of the Health Information Act, existing health and other statutes were reviewed for consistency in language and interrelationship with this act. Many of the provisions in existing statutes that had to do with collection, use, and disclosure of health information were repealed, as many as possible and as appropriate, in favour of the provisions contained in this act because, as we talked about last week, one of the purposes of this act was to pull those collection, use, and disclosure provisions in other pieces of health statutes together in one piece of legislation. There are paramountcies, however, and the Public Health Act is an example of a statute that is paramount in many of its provisions to the Health Information Act. Those consequential amendments that were made have been incorporated in those other acts.

Noela, did you want to add anything from a legal point of view to what I just said on part 9?

Ms Inions: Nothing comes to mind.

Ms Versaevel: Thank you.

The Chair: All right. Thank you very much for the information and the comments.

I guess now we're ready to go to item 10 on the agenda, which is the consultation guide. We'll get those circulated, and then Catarina will lead us in an introduction of the guide to begin with. Then the committee can decide how extensively you want to proceed with discussion today or what is your wish. We'll do the introduction first, and then we'll see what your wishes are.

Everyone have a copy? Okay; let's proceed with the introduction then.

Ms Versaevel: Thank you. This, as you can clearly see, is a draft for discussion purposes. It's hard to see under the word "draft," but it says "The Health Information Act" and "Preliminary Draft of a Consultation Guide for Discussion," and the "draft" is just covering those words up.

In pulling together the draft of this consultation guide for your review and comment and direction, what we attempted to do was to highlight again the parts of the act, to raise issues but to not get into an issue analysis in the consultation guide and thereby lead any reviewer or submission in a certain direction. Rather, the background was provided and the question is posed on those issues that we anticipate will arise and those issues that in our policy view would benefit from discussion with stakeholders. So there was a balance attempted in the drafting to not provide an analysis of the issue but rather just give some background and pose the question to the reviewer.

On page 3 it's just listing the review committee and where to send comments. The conclusion picks up on that again, and it may be appropriate to do this in another way.

What we did as well, I should mention, is look at the FOIP discussion guide that went out to see how that was done, and we tried to build on that model as well.

The introduction for the reader to this consultation guide is on page 4. Basically, the introduction advises that when the act became law, the legislation protects privacy of Albertans, of course, and the confidentiality of their information; and balances, as we've been discussing: "privacy and confidentiality with the need to enable health information to be shared"; and it provides individuals with the right to access their information and to have their information protected.

The introduction speaks to a special committee of the Legislative Assembly needing to conduct a comprehensive review and that Alberta is one of three provinces with health information legislation in effect. It highlights as well that the rules in the act are based on "internationally accepted fair information principles" – it was felt that that was significant to mention – and that the act extends to Albertans two basic rights: the right to privacy and confidentiality and the right to access the individual's own information.

The next paragraph just highlights that the "document has been prepared as part of the review process and is intended to focus the review on key issues" but that these are by no means the only issues that the committee is willing to consider and invites the reader to raise any issue on "collection, use and disclosure and protection of personal health information." Basically, the introduction is just, in general, speaking about the act.

The background section, on page 5, speaks to, again, the act coming into effect, the custodian concept, that it's been in force for three years, and that "there have been significant developments which will influence the review." The background builds very much on the approach that the FOIP discussion guide used in putting forward their background, including highlighting what the committee will focus on.

Of course, the fourth bullet, under the heading "this Committee will focus on," would be revised given the change in the terms of reference that were discussed this morning, and it highlights what the review does not include. As I say, we just used the FOIP template for discussion of the background. So that's all general information for the reviewer who may not be as familiar with the Health Information Act.

1:30

Perhaps I'll just make a comment in terms of the reviewers that likely would wish to make a submission to the select committee on the Health Information Act. In drafting this document we were also aware that there are many groups already who are preparing submissions to the select committee, and their submissions likely

have been developed to a great extent and are already being vetted and thought about, notwithstanding that there is no consultation guide as such, because those groups are very familiar with the Health Information Act. They have been working with it and have issues that they may wish to bring forward. So the use of this consultation guide likely will not be for all individuals, organizations who may wish to make a submission to the select committee.

The approach in pulling this document together – I'm highlighting it so that you're aware what's here, but this at this stage is being tabled for your information, recognizing, of course, that this is the first time that you have seen it. Once we highlight it, I believe that then we'll be discussing how to proceed with the review by the committee. Since there is some time, I'll just take a bit of time to walk us through in more detail than just tabling it with you if that's acceptable.

The Chair: Are there any questions to this point?

Sounds good.

Ms Versaevel: So the organization of this consultation guide is according to the parts of the Health Information Act that we have just gone through. Part 1 speaks to the purposes, definitions, and scope. It highlights for the reader the seven key purposes of the act; it puts forward another purpose that has been suggested, which is one of establishing mechanisms to ensure transparency and accountability for the collection, use, and disclosure of personal health information; and it poses a question, whether the purposes are appropriate – "if not, please explain why and make suggestions for improvement" – and whether the inclusion of the additional purpose would be acceptable and, again, "if not, why not?" basically to engage the respondent in the debate on the purposes.

Rather than listing all the definitions – and there's a reference later on to where one can find the act – this document basically just says that the definitions assist in interpreting the provisions and asks whether the definitions are appropriate. Are there any that should be modified? If so, kindly provide the rationale and any suggested wording.

The Chair: We have a question at this point, Catarina.

Ms Versaevel: Sure.

The Chair: Hector.

Mr. Goudreau: Thank you, Mr. Chairman. I guess that you just brought up a point that we will not provide the definitions in this discussion paper, which means: will the general public and those involved have access to the act? Is it going to be readily available for them if they request a copy so they can work on responding to this?

Ms Versaevel: Yes. At the back of the paper it makes reference to HIA and the ability to get a hold of the act, and there has been a lot of information over the last several years on the Health Information Act. Again, given that it's not a new piece of legislation, I think many respondents to this review will be very familiar with it, but we will make sure and would need to make sure of the web site where it can be readily accessed. There's a section that speaks to that at the end.

The Chair: Thank you, Hector.

Ms Versaevel: The section on scope speaks to the two essential dimensions of scope that the act speaks to, introduces in general terms the listing of custodians, speaks on page 8 to the concept of affiliate, and introduces one of the scope issues with respect to AADAC and persons with developmental disabilities and also that the act doesn't include an operator as defined in the Ambulance Services Act.

This content on scope goes on to talk about the provincial steering committee report in June of 1998, introducing the notion of expanding the scope of HIA which is spoken to in section 109. So it just speaks to that initial recommendation, that that recommendation wasn't adopted and that this committee is further considering the scope. The general question is whether the scope of the act should be expanded to include other government departments, local public bodies, basically just asking the question of the reviewer that is part of the mandate of the select committee.

Then this section goes on to talk about ambulance operators and what has happened recently – that's spoken of on page 9 – the decision in the spring of this year to transfer ground ambulance governance and funding to health regions from municipalities. It sets up the question for the reviewer of whether operators as defined in the Ambulance Services Act indeed should be included.

Then it introduces the issue of scope with respect to the electronic health record, which we have spoken of, and poses the question again on the scope: whether it should be changed given the implementation of the EHR.

The scope section also speaks to health service provider information and explains why health service provider information was included in the Health Information Act, what kind of health service provider information is covered by the act, and then asks the reviewer whether health service provider information should be included within the scope, and if not, why.

Then it speaks to the Personal Information Protection Act and highlights the inclusion of health information that's in an employee's health record and raises the question as to whether health information in the employee's health record should be part of HIA. Again, if yes, what is the rationale?

This scope section also speaks to WCB and to Alberta Blue Cross and explains the operation of WCB, that it's not part of the scope of HIA because we're dealing with the publicly funded health sector, but it is an issue of scope given, again, the mandate of the committee to look at any entity that has health information in its custody and control. It just provides background information for the reviewer on WCB and Alberta Blue Cross and asks the question with respect to both WCB and Alberta Blue Cross.

On page 11 it introduces to the reviewer the issue of recorded as compared to nonrecorded health information and whether any consideration should be given to provisions that speak further than the act currently does to nonrecorded health information. It informs the reader that there are of course issues concerned with including nonrecorded health information, but the question is posed because the question has been asked. So should the definition be changed? If yes, what is the rationale? If not, why not?

The Chair: We have a question at this point, Catarina.

Dave.

Mr. Broda: Thank you, Chair. Could you give me an example of nonrecorded information? You're saying recorded and nonrecorded. It's got to be something that can't be from the top of a head, I would think. What's nonrecorded?

1:40

Ms Inions: Are you looking for an example?

Mr. Broda: Yes.

Ms Inions: Just the conversation between a doctor and a patient, taking a history in an emergency department, consultation discussions between health service providers, questions from family members might all be examples of unrecorded health information. In fact, it's the dynamic of providing health services. It happens in a verbal context usually. That's how it is delivered, and then you write it down after as your recollection or your description of the care you've provided. So the nonrecorded is all that happens before you get around to making that entry in the health record after.

Mr. Broda: Thank you.

Ms Versaevel: Part 2, on page 12, the individual's right to access their own information, here for your review and consideration when you have the discussion on this guide. Basically this section just explains again the individual's right to access, their right to request correction or amendment, the time frames, the fees issues and introduces the issue of the EHR and access to your own information within the EHR, that that matter will require particular consideration. Individuals who Wendy mentioned last week when she gave the overview of the data stewardship committee that has been looking at the electronic health record collection, use, and disclosure rules – that committee may have commentary on this issue because they are very familiar with it and have been working with it.

Individual public, you and I as individuals if we were not engaged in this issue, may not necessarily be raising issues on the electronic health record and issues of access as defined under the act, but certainly entities who have been working with the EHR are familiar with this issue. So the questions on page 12 basically are those questions that appear to be appropriate to ask the reviewer in relation to part 2.

Part 3 – again, we're just following the sections of the act – speaks to collection. We already this morning reviewed those provisions in the act. There was just a summary put forward here as well as highlighting the duty on the custodian to take reasonable steps to inform the individual of the purpose and the legal authority for the collection and then two questions for the reviewer: whether the duty to collect directly from the individual except as authorized is appropriate, or "are there other legitimate circumstances for indirect collection? If so, please explain." It raises the issue of whether custodians should "be permitted to collect information about his or her family health history without the consent of the family members" when that collection is necessary to provide health services. Or should privacy protection not allow this type of collection?

The last question is whether the requirement to inform individuals about collection practices is effective, or does it create any operational difficulties and, again, to please explain.

The way the questions have been worded is basically to guide those individuals who are not day-to-day familiar with the legislation and working with the Health Information Act. Again, it would be our view that custodians who work with the Health Information Act and are familiar with it will require not the same type of consultation guide to generate their input.

Part 4 speaks to use and again highlights those rules that we have spoken of and the mandate of custodians and that they need information to fulfill their mandate. It addresses the issue of if the scope of HIA were expanded to include other entities, then one would need to look at those authorized purposes and on page 16 raises a series of questions that are prompted by the use provisions.

For example, are the purposes as listed appropriate for existing custodians? If not, how could they be improved? If you recommended an expansion of scope to include other entities, what purposes and responsibilities would you change to reflect the mandates of those other entities that are currently not custodians? Is it appropriate to use identifying health information without consent for the authorized purposes, again subject to all the overriding principles which are also spoken to in this guide? Should the listing overall of the authorized uses be expanded, restricted, or modified in any way?

Part 5 on page 17 basically speaks to the disclosure rules: what consent must stipulate, as we've talked about; examples of discretionary disclosures without consent; and again raises the question of whether the elements of consent are appropriate and whether the discretionary disclosures are reasonable and appropriate. Then the disclosure section refers to specific disclosure issues that we have been advised are issues, and, again, we talked about these as part of the orientation last week.

One is certainly disclosure to police, so we raise under the act when disclosure to police is authorized and raise the issue and the challenge to balance the privacy of the individual; i.e., the health professional's point of view that protecting the privacy of the individual in the interest of providing care and treatment is very critical. Health professionals at the time of introducing the Health Information Act argued that to disclose information to the police would impact the care of individuals who would then not come forward for care if they knew their information would be provided to the police.

The act has very specific provisions, as you know, on when disclosure to police is authorized. However, the police services argue that in the interest of protecting public safety and preserving the peace, they need to get more access to health information in order to conduct investigations. So this section of the document presents that issue and again asks the question.

The triplicate prescription program we spoke of briefly last week as well. Although it's the policy position that there's authority under the Health Information Act whereby health information can be disclosed for purposes of the triplicate prescription program, given that it allows disclosure when it's authorized or enabled by a statute – the college and RxA have those bylaws and resolutions – there is a continuing question. The suggestion here for discussion is that there be clear authority for the triplicate prescription disclosures, and I think correspondence from the commissioner, in fact, has suggested that that's an important area to take a look at. So that's highlighted as well with a question.

When we talked briefly about the triplicate prescription program last week, I think there's no question from the professional bodies that TPP is critical and that information needs to flow in order to enable TPP. There is a question, though, whether the Health Information Act clearly allows that to occur, so that's why this issue is put forward here.

The Chair: We have one question at this point.

Dr. Pannu: My question is on the triplicate prescription program. Would you describe it, elaborate a bit for me, and also the practices associated with it?

Ms Versaevel: Absolutely. Noela, you've been doing work with the groups on this issue, so maybe you could speak to that.

Ms Inions: I could. The TPP means, of course, triplicate prescription program, and what that means is basically a quality review, quality assurance program to detect fraud or double-doctoring of prescription medications. The triplicate prescription refers to a triplicate prescription pad that's actually issued page by page, number by number to basically ride herd on the issue of fraudulent

prescriptions or double-doctoring situations, where an individual might go two or three places to get narcotics prescribed, for example. Whether they sell them on the street or whatever their own decision is, the situation is double-doctoring.

Without this kind of a program a physician maybe in St. Albert or, you know, a neighbouring town, even down the street, wouldn't know that another physician has just written a prescription for that same medication. There is actually a list that is updated on an ongoing basis of the specific medications that are prescriptions governed by this particular program. It's a program that is administered by the College of Physicians and Surgeons of Alberta but with the involvement, certainly, of the pharmacists, because a physician writes a prescription and the pharmacist would be the one filling it.

1:50

Dr. Pannu: I understand the purposes of it, but exactly what does it constitute in terms of what is a triple prescription?

Ms Inions: What's a triplicate prescription?

Dr. Pannu: A triplicate prescription.

Ms Inions: That refers to the three pieces of paper. Normally, there's just one hard copy of a prescription. This is triplicate because the physician writing it keeps one copy, the pharmacist filling it keeps a second copy, and the third copy goes to the College of Physicians and Surgeons because they're administering the program. Sorry; I didn't understand specifically what your question was.

Dr. Pannu: Thank you.

The Chair: Dave Broda.

Mr. Broda: Yeah. Further to that question, when we say a triplicate that the pharmacist writes, what happens with that information, say, when it goes to the AMA? If there's a specific physician that may be writing these prescriptions, what happens in that case? Where does that information go? How do we control the prescription method or whatever is happening? Say, for example, we indicated that one individual may have two or three different physicians, but do we keep a record of a physician whose name keeps coming up all the time? How does that information get out or can it get out?

Ms Inions: That would probably be a better question for someone from the college, but as I understand it, the college then has the authority to contact the individual physician. It might in fact be the individual who's getting all the prescriptions. Sometimes they're in fact stolen, so it's not necessarily even a physician filling out the form. It's just a program to try and identify situations of fraud or double-doctoring or inappropriate prescribing, and the follow-up would depend on the type of incident they thought it would require.

One of the things that they have addressed in the bylaw and resolution that's mentioned here is the ability to even go and look at records of individuals to assess whether it's required medically. It's like a type of peer review, and that's done within the context of the College of Physicians and Surgeons, that does many types of peer review of its members.

The Chair: A further question, Dave?

Mr. Broda: Yeah. Further to that question, my understanding also is that sometimes in a research sector part of the research group that's looking at a particular drug that is being administered, the physician may not want his name identified. Is that an issue again? How do I know how we control it?

Okay. I'm doing a database on a specific drug, but in order to control it, we're saying – oh, I don't know; I'm not familiar with drugs, but say it's Aspirin that's being prescribed, and all of a sudden there are thousands of prescriptions of Aspirin that are out there or the drug itself. But we want to control it; we want to identify who is doing it. How do we control it, and why is it being prescribed for medical research? To stop the use or slow down the use or – I don't know if I'm on the right track. I'm just trying to get some kind of information as to how we control it. Why would a physician not want his name disclosed on a prescription in a lot of cases? I guess that's the Alberta Medical Association's issue, as you indicated.

Ms Inions: Actually, I was referring to the College of Physicians and Surgeons, not the Alberta Medical Association.

Mr. Broda: I mean college, yes.

Ms Inions: Well, I guess it would depend on the specific circumstances. Of course, the example you give wouldn't be caught anyway because it's not actually prescribed. So there is a lot of concern about over-the-counter medications that individuals may simply choose to use or purchase in any way, shape, or form, and it's only when it's really identified as a problem that I suppose you might follow that up.

There are lots of ways to do research on those kinds of situations. You could actually get information directly from the public in terms of surveys or their own participation in research. There are a lot of peer review activities done by the college that are actually mandatory, and if they identified something as a problem, they could initiate that type of a review.

Mr. Broda: If I may, I didn't mean to use Aspirin as a drug. I know it's over the counter. I just used it for name's sake. It could be whatever other drug that's maybe a narcotic or whatever that you can buy across the counter.

Ms Inions: One good example might be antibiotics and looking at whether antibiotics are appropriately prescribed. There was a Do Bugs Need Drugs program run in fact very successfully in this province, where the physicians consented and up front were very willing participants in that type of study. So that's another example.

The Chair: Thank you.

Catarina.

Ms Versaevel: Page 19 of the consultation guide draft also introduces the issue in part 5 of the act of disclosure to third party carriers for purpose of payment. The issue was brought to the attention of Alberta Health and Wellness and others that the current requirement for a custodian to obtain consent to disclose diagnostic treatment and care information to a third party carrier for purpose of payment was problematic and created administrative burden on the pharmacist and pharmacy. There was much discussion and analysis conducted by RxA and the Canadian Life and Health Insurance Association, and many of us around the table have been involved in those discussions.

That, after significant analysis, resulted in correspondence from the Minister of Health and Wellness advising – this correspondence became very public, which is why it is referred to in this document – that the minister intends to consider an amendment at the time of

the three-year review to enable custodians to disclose diagnostic treatment and care information to third party carriers for purpose of payment. The rationale for doing so is highlighted here, so it seemed appropriate to highlight that as part of this consultation guide.

As well for your review there is a short piece on genetic information. That is an area, too, that is evolving, notwithstanding that existing domestic and international frameworks don't have specific protection provisions, meaning they don't extend unique privacy and confidentiality rules for the protection of genetic information. Clearly, the technological implications of this type of information are starting to raise some questions, and there likely will be submissions that address this. The question is posed to the reviewer whether HIA should be amended to include stronger provisions to protect the confidentiality of genetic information.

The next section is on consent for care and treatment, and it highlights what the current consent requirements are within the Health Information Act. It introduces to the reviewer the federal privacy legislation, the PIPEDA legislation. This legislation has been interpreted to mean that there should be implied consent within what the Industry Canada material says, within the circle of care. So there should be implied informed consent for care and treatment within the circle of care, meaning PIPEDA requires consent based on knowledge.

Our Health Information Act as well, as we have talked about, when we're dealing with consent requires that there be an awareness. However, our Health Information Act, as we've discussed, does not require consent for care and treatment. Within the federal law it has been interpreted to indeed require implied informed consent within the circle of care.

2:00

For purposes of this consultation guide, given that we have the federal law out there, it was felt appropriate for your review and for your direction to introduce the issue and the debate on consent for care and treatment within the context of the federal law and the impact of the federal law on custodians that are currently subject to the Health Information Act. That's basically on pages 19, 20, and 21. It raises the question for the reviewer of whether informed/knowledgeable implied consent for care and treatment is appropriate for Alberta's health system, and if not, why not? What would the operational and service delivery implications be? So to introduce the reader to this issue.

The Chair: Question?

Dr. Pannu: You referred to "circle of care." What does it exactly mean?

Ms Versaevel: The Industry Canada material, in their interpretation on the federal law, uses the term "circle of care." What they speak about within the circle of care are really providers providing care. So that's the circle of care, provider to provider, sharing information about the individual for care and treatment purposes.

Dr. Pannu: From pharmacists to nurses to doctors . . .

Ms Versaevel: Nurses to specialists, physicians to another physician. Exactly.

The Chair: Thank you.

Let's go ahead.

Ms Versaevel: All right. On page 21 the issue of research disclosure is highlighted and has been highlighted for you this morning, the disclosure rules we have for research in HIA basically, and again it poses to the reviewer whether the research provisions are reasonable, effective, and operationally appropriate and if not, why not?

Page 22 of the draft consultation guide speaks to the duties and powers of custodians, as Wendy highlighted them this morning, speaking to the physical, technical, and security safeguards, PIA requirements, information manager, and data matching, those being the key duties that are spoken to in part 6, and asks the reviewer the general question as to whether those duties and obligations are appropriate, are reasonable, and if not, to provide the rationale for that view and provide any suggestions for improvement.

Part 7 of the document, again, reflects part 7 of the act, speaks to the commissioner's role and powers very briefly, and asks the question as to whether anyone would have any suggested changes and to identify those.

Part 8, which are the general provisions . . .

Mr. MacDonald: Chairman.

The Chair: Oh, sorry. Mr. MacDonald.

Mr. MacDonald: Yes. May I ask a question, please?

The Chair: Yes.

Mr. MacDonald: Perhaps this is more in Ms Gallant's sphere and I should know the answer if I read the commissioner's annual report, but what is the division of labour – I'll use that term – with the Privacy Commissioner in regard to administering the freedom of information legislation and the Health Information Act? Are the majority of inquiries on access to information or on the HIA?

Ms Inions: I think there's pretty much an even split. Under the FOIP Act there are a lot more issues around access because it includes organizational access as well as individuals accessing their own information. So they have a lot more case files in the access area, and they have slightly more staff as well, I think, because that's an additional component, a different type of access. They don't have nearly as many issues under breaches of privacy.

The Health Information Act has had a lot of case files under breaches of privacy, much more active in that area. About half the case files in HIA involved reviewing PIAs, which is just done on a voluntary basis under FOIP. So it's a very different type of activity.

Again, it's just a ballpark, but there are in terms of numbers slightly more in the FOIP arena than in HIA in terms of case files.

The Chair: Thank you, Mr. MacDonald.

Seeing no further questions, let's proceed.

Ms Versaevel: Part 8 on page 25 of the draft consultation guide speaks to the general provisions, those individuals that can act on behalf of an individual, and raises the question, "Is the list of substitute decision makers appropriate?" If not, "explain and provide any suggestions for improvement." This section also for the reviewer of this document speaks to fines and penalties and asks the question on page 26 as to whether these offences and penalties are appropriate and again if not to explain why not and any suggestions for improvement.

On page 27 it introduces the health information regulation, highlights . . .

The Chair: We have a question. Mr. MacDonald.

Mr. MacDonald: Yes. I have two questions at this time. The first is: since this legislation became law in April of 2001, I believe, as you stated earlier, have there been any charges laid for violations of this act?

Ms Inions: I presume you're talking about the penalties, the $50,000 penalties.

Mr. MacDonald: Yes.

Ms Inions: The answer is no.

Mr. MacDonald: No.

Ms Inions: That penalty would be levied actually through Alberta Justice. That would require a private prosecution. Those kinds of penalties are extremely rare in this kind of legislation. For example, under Manitoba's legislation, that's been in effect for five years, they've had one that they have levied in that time.

The Chair: Second question, Mr. MacDonald.

Mr. MacDonald: Yes. Last week you told us that four provinces, Saskatchewan, Manitoba, Alberta, and Ontario, have sector-specific health information legislation.

Ms Versaevel: I believe I would have said that there are three provinces with health information legislation in effect and one province, that's Ontario, that has introduced health information legislation, but they do not have health information legislation at this time. They've introduced it, but it's not in effect.

Mr. MacDonald: Are our financial penalties which are outlined here in section 107 the same as the other provinces, or are the other provinces higher?

Ms Versaevel: There is variation among the provinces in the amounts. Saskatchewan is the highest. It goes up to $500,000 for corporations.

Mr. MacDonald: Wow. That's big.

Ms Versaevel: That likely has a background story to it, but I'm not familiar with the background as to why that figure is the way it is. But it varies.

Mr. MacDonald: Would it be possible at the next meeting to get just a little table of what other provinces' financial penalties would be for a violation? [interjection] Thanks.

The Chair: Thank you.

Ms Versaevel: Page 27, then, highlights the content of the health information regulation at a very high level and asks the question of the reviewer whether they have any suggestions for improvement within the health information regulation. Likely the suggestions for improvement will come in the provisions themselves. This was kept very brief because the regulation refers to provisions in the act.

The conclusion, then, on page 28 again is just highlighting the purpose of the guide. We just looked at the FOIP document, FOIP discussion guide, and highlighted how that content was put forward, meaning your submission should be sent by fax or e-mail to Corinne. All submissions should be received by – when is not clear of course. Referring near the end of this sheet to the committee providing its report to the Legislative Assembly in – left as a blank. Where one can find HIA will need to be more clearly referenced.

2:10

The Chair: Thank you.

Mrs. Sawchuk, do you have any additional information there? Did I get that right?

Mrs. Sawchuk: Yes, you did. Thank you, Mr. Chair.

There was just one item . . .

The Chair: Oh, okay. Let's hold that one for just a minute.

Mrs. Sawchuk: Did you want this one?

The Chair: Like, the web site, did you want to make it . . .

Mrs. Sawchuk: Oh, right. This is just for members' information too. We do have a separate e-mail address now set up just for the committee, so it won't reference a staff member or anything. It's just going to be strictly with the committee name. Information will be posted, and there will be links. If you go onto the Health and Wellness web site, there's a link to our committee. You can click on these different links, get into the consultation guide, go back to Health and Wellness's site. You can access it from the Assembly web site, all of that.

Thank you, Mr. Chairman.

The Chair: Thank you.

Ms Blakeman.

Ms Blakeman: Thank you. I'm referencing an earlier question about how people could get their own copy of the Health Information Act and the accompanying appendices, and I was expecting to find that on this page. Is that what you meant when you said that there was some missing information and you'll put it in?

Ms Versaevel: I was just making reference that that would need to be more clear than it is on where the individual could get a copy of the Health Information Act.

Ms Blakeman: Now, am I correct in understanding that if they try and order off of the Queen's Printer web site, they are charged something?

Ms Versaevel: Uh-huh. That's correct.

Ms Blakeman: Can you provide information about how an individual could access a copy without having to pay a charge?

Ms Robillard: Yes. It's available on Alberta Health and Wellness' web site, and we'll make sure we put that link in here.

Ms Blakeman: Thank you.

The Chair: Yes. Is "Heather" okay or is . . .

Ms Veale: "Heather" is fine. Thank you.

I might also add that you can access legislation on the Queen's Printer web site for free. You can choose to purchase a copy, but you can also look at copies electronically and print a copy for yourself as well.

The Chair: Ms Blakeman, do you have another question?

Ms Blakeman: No. Thank you.

The Chair: Okay. Thank you very much, Catarina and team, for an excellent overview of the consultation paper.

Before we leave that to go to the next item on the agenda, I'm going to ask Mrs. Sawchuk to please make the suggestion to the committee that she has just made to me regarding page 3 of your consultation guide. It has to do with titles and designations. Mrs. Sawchuk.

Mrs. Sawchuk: Thank you, Mr. Chair.

The Chair: Are you any relation to Terry Sawchuk?

Mrs. Sawchuk: No, I'm not. Thank you.

This was just an item we've had arise at other committees. With some of the other all-party committees members have asked that their party designation be shown after their names on reports that are tabled, and we generally ask if that's something that the members want. In this case we're going to ask that it be changed to show, as an example for the chair, MLA Cardston-Taber-Warner, and then in brackets right after that it would just say PC, you know, like that. So if that was something that the committee was interested in.

The Chair: Yes. Question. Hector.

Mr. Goudreau: I agree with that, but I don't see the significance of having constituency offices.

Mrs. Sawchuk: Oh, no. That was one of the things. So it would read: "Mr. Broyce Jacobs, chair, MLA Cardston-Taber-Warner (PC)." Yeah.

Ms Blakeman: So constituency offices come out?

Mrs. Sawchuk: Yes, that will come out.

The Chair: Yes, Lloyd.

Mr. Snelgrove: This is a normal thing for all-party committees to put your party designation with your name?

Mrs. Sawchuk: With an all-party committee it's often done. Not always. It's not a requirement.

An Hon. Member: It's just a suggestion.

Mrs. Sawchuk: Yeah, it's a suggestion.

The Chair: Okay. Anyone have serious problems with the suggestion? Okay. We will make the change.

Mrs. Sawchuk: Okay.

The Chair: Okay; thank you very much.

So this is the document that we will be needing approval on at our next meeting so that it becomes the official document which will go out for consultation. This is only draft.

Yes, Dr. Pannu.

Dr. Pannu: Mr. Chairman, you said we'll be returning to it at the next meeting?

The Chair: Yeah. We have two more items on the agenda, and the last one will be picking the date for the next meeting.

If we could do number 11. Roseanne, would you like to cover this one for the committee, please?

Ms Gallant: Yes. Thank you, Mr. Chair.

The Chair: Do they all have a copy of this?

Ms Gallant: Corinne is handing it out is my understanding.

At the last meeting and in response to Mr. Goudreau's question about concerns raised with the application of the HIA, I had offered to provide a current list of statistics of the number of requests for review made to our office about access to health information. That might go towards answering that question from last week, so that's what I've prepared for the committee this week. It doesn't reflect the current question of today about the comparison to FOIP, but it would perhaps go to answering last week's questions. So I'll just let Corinne hand that out for you, and then I'm pleased to entertain any questions about those statistics that you may have.

The Chair: Thank you, Roseanne.

Ms Gallant: You're welcome.

The Chair: There may be some questions once they get the document.

Ms Gallant: Yeah. These particular statistics as well, I'll add, are just for last fiscal year. I didn't do them for the entire three-year period that the HIA has been around. It was just to give you a flavour of the latest year of statistics. I did provide more than just requests for review. I thought you might be interested in seeing privacy impact assessments, advice and directions the commissioner has asked for, and so on, so I've given you the entire style of cases.

The Chair: Thank you.

Does everyone now have a copy of the document? Are there questions? It's so well done, there are no questions. That's incredible.

Dr. Pannu: Mr. Chairman, some of us are just slow going through it, so there may be questions.

The Chair: Okay. Sorry.

Dr. Pannu: My question is on the complaints. I notice that there are five complaints. Is there a pattern to these? They're all over the map. What are they?

Ms Gallant: You know, I don't think we've ever analyzed them from the basis of is there necessarily a pattern, not particularly with these five that we've put on here. Applicants have the ability to complain about collection, use, or disclosure in contravention of the act. No. I would say there's no real pattern.

Dr. Pannu: Mr. Chairman, my second question. There are a fair number of privacy impact assessment cases. Would you elaborate on that? What exactly does that constitute?

Ms Gallant: Well, the privacy impact assessment cases, as we have noted – under the Health Information Act, as you know, this particular duty for custodians is mandatory, so this is why we are

seeing certainly a good level of compliance, although we would argue that it is not to the level we would wish for in a perfect world. But it is a mandatory duty, of course, that whenever they introduce or modify new administrative practices or IT systems, a PIA be submitted to the commissioner for review and comment. So this, then, does constitute large numbers of caseload.

The one that is the highest number is the physician office system program. With that program, in concert with Alberta Health and Wellness and the AMA, introducing electronic systems for physician offices, then those are the custodians that had the obligation, I suppose, the most in the last fiscal year.

2:20

Dr. Pannu: Okay. So these applications or requests for assessment come from custodians?

Ms Gallant: Yes, it is a custodian duty. That's correct.

The Chair: Other questions? Yes, Thomas.

Mr. Lukaszuk: Is there any chance that we can see a standard privacy impact assessment, study a case? I'm quite curious to see what they look like and what realms of privacy they venture into.

Ms Gallant: Yes. Would you like to see more than just the template that custodians use that lists out the questions that we ask of them? Would you like to see a completed one? Is that what I understand?

Mr. Lukaszuk: That's right; a case sample.

Ms Gallant: Yes, I could probably find a custodian who would agree to have a privacy impact assessment be shared with the select committee.

Mr. Lukaszuk: Thank you. I appreciate it.

The Chair: Thank you.

Also in your minutes last week you noticed that there was an action request from Mr. MacDonald on the ad hoc task force of private health entities. You should have now before you a private-sector distribution list. Any questions? Yes, Mr. MacDonald.

Mr. MacDonald: Just for clarification, these are the people that were invited but not necessarily the presentations. This is just the global list; right?

Ms Versaevel: Indeed, that's the list of invitees when we hold an ad hoc meeting with private-sector health entities.

Mr. MacDonald: So this isn't the list of those who are actually in attendance?

Ms Versaevel: This is the list of those who are invited. This is not necessarily the list of people who come to the meeting. That varies by meeting, who ends up coming. So that's the list of people that we invite to these meetings, yes, if I'm understanding your question properly.

Mr. MacDonald: Yeah, you bet you are. The draft that was presented to us half an hour ago or whenever we got it after lunch: they've had a look at this?

Ms Versaevel: Has that list of people had a look at this?

Mr. MacDonald: A look at this draft, yeah.

Ms Versaevel: No. This consultation guide was drafted for the review, consideration, and direction of the select committee. No one but the select committee has reviewed this document.

Mr. MacDonald: Thank you.

The Chair: I'm going to assume, then, that we aren't going to release this document today even as a draft. We're going to ask that the document be kept in-house in confidence until the committee has approved the draft at our next meeting. Would that be a correct assumption? All right. I don't want to read it in the paper tomorrow.

Ms Kryczka: Just a small point. In this private list Verchere is no longer part of the title name. Bennett Jones, Verchere is not there any longer. In the private list take off Verchere. It's Bennett Jones only.

The Chair: Is that okay, Ms Kryczka? All right.

Other questions?

Mr. Goudreau: Mr. Chairman, I guess – and Thomas alluded to it very briefly here – I'm just confused a little bit about the process in terms of releasing the draft. Why would we not release it today if there's not to be any major changes to it? Is the intent and purpose for us to think about it until our next meeting and then at that time maybe make suggested changes and then release it?

The Chair: This is a draft document. It's not approved. It would not be appropriate to release it today. It will only be appropriate to release it after the committee has discussed the document at our next meeting and has either changed it or accepted it. There may well be some changes that will be proposed and made to the draft, so if we put it out today, we just open ourselves up for all kinds of trouble down the road.

Thomas, did you have a question, comment?

Mr. Lukaszuk: No. I'll work with that.

The Chair: Yes, Dr. Pannu.

Dr. Pannu: I'm just clarifying, Mr. Chairman, for my own purposes what you have just said. I guess once this document is approved by us as a committee, it becomes, then, a committee document. Is that correct? At the moment it's a draft that comes to us from the department; right?

The Chair: Yeah. At this point it's a working committee document to be at some point approved by the committee, at which time it will go out to Albertans for consultation.

Dr. Pannu: As a committee document. Okay.

The Chair: Yeah.

Yes, Mr. MacDonald.

Mr. MacDonald: Mr. Chairman, I don't understand the need for any secrecy around this document. This is a public meeting; it's open to the public. The explanation of this draft was not held in camera. We've got a transcript here. I think this is overboard. Perhaps if someone was to read this draft – the more publicity the better – the

better the end product would be in November or January or February, whenever we do make our final report to be tabled in the Legislative Assembly.

The Chair: Mr. MacDonald, if I may, the proceedings today will not be approved or released until after the minutes are approved at our next meeting. So, you know, even though we have the draft document today, there will be no release until after the next meeting at least, and at that point I would hope that the committee is prepared to accept either the draft or changes to the draft. It's not like it's a secret document; it's just that it is only a draft document for the use of the committee to use as a basis for the consultation guide. It just seems to me that it would be more appropriate for us to keep the document in confidence until the committee has approved it or changed it or whatever the committee decides to do, but I'm open to comments from other members.

Ms Kryczka: I'd just like to propose that if we consider our timeline, would it be helpful – I'm maybe just talking to the committee members here – if each one of us review this, take it away and look at it and read it? You know, maybe there's some punctuation that's missing. Maybe there's something else you want to question or you'd like to change in the document itself. We would just write on it and submit it to Corinne or Karen within a week or 10 days so that they have a chance to maybe massage or summarize or comment so that when we do meet at the next meeting, we're not arguing about periods or commas here or there. We can, you know, talk about the more important issues that arise.

The Chair: That's certainly a suggestion. If committee members want to do that, it may facilitate the process. If you have questions or comments and want to make a note of them and send the note in, then it would enable those like Catarina and others to know some of the thoughts that are being made.

Maybe I'm misreading the committee. Maybe the committee doesn't want another meeting to discuss this. Maybe you're ready to go today. [interjections]

Okay. So then it is draft. You will meet again – we're going to decide when that's going to be in just a moment – and at that point we will hopefully change or approve the document. Ms Kryczka's suggestion is certainly good, and I don't know if there are any other comments on this suggestion.

Okay. Yes.

Mrs. Dacyshyn: I guess I need a little bit of clarification then. The normal practice, in my mind, for the minutes of this meeting will be that I'll prepare the minutes of the meeting, which in my normal practice would include the draft you have in front of you right now, but that will not be released to anybody. If somebody phoned me tomorrow and asked for that draft, I can't give it to them until the minutes, which will attach the draft you have in front of you, have been approved by the committee at its next meeting. At that point it becomes a public document.

So I'm hearing a couple of different things, and I just wanted to be clear. Are you saying that you don't ever want the draft attached to the minutes or just that you don't want it to be distributed between now and when the minutes of this meeting are approved at the next meeting?

2:30

The Chair: Did I not understand you to say that we can attach it to the minutes but that it won't be approved nor released until the minutes are approved?

Mrs. Dacyshyn: Approved; correct.

Mr. Lukaszuk: It's much ado about nothing, Mr. Chairman, and I think you're on the right track. The only fly in the ointment is that we've been walked through this document vocally unanswered, so the content of the document is public even though the document per se, the paper, is not. But I think you're on the right track. We should take a week and go back through it.

The Chair: Who reads *Hansard*?

Dr. Pannu: Well, Mr. Chairman, the point has been made that not only what's gone on in this meeting will be in *Hansard* but that the meeting, in fact, in a very real sense is an open meeting, is a public meeting. So what are we trying to keep confidential?

Mr. Snelgrove: It's no different than any other draft document.

Dr. Pannu: Exactly.

Mr. Snelgrove: You keep it till it's presented or at your own peril release it.

Ms Kryczka: I guess I just feel that any reports I've done and documents – I'm not saying that it isn't an excellent job, but I haven't read it over, and I think as a committee we should read it over and see if there's something major in there lacking. We might end up saying it's perfect.

The Chair: Well, I guess the point is that *Hansard* will be available probably in a couple of days, tomorrow or Thursday. So, you know, if someone wanted to read *Hansard* of today's meeting on Thursday, as Thomas has pointed out, you know, there have been significant comments made. Nevertheless, the document itself has not been totally released. So it is a draft document which will be approved soon by the committee. Let's not split this thing any more.

All right; let's talk about Date of Next Meeting. I trust that if we can get this done in the next 10 or 15 minutes, we will be adjourned and you don't need a break. Is that correct?

An Hon. Member: Agreed.

The Chair: Okay. So everyone has a calendar with them, I assume. We would like to do this as soon as possible, but we do have a couple of problems with the week of the 14th to the 18th. Catarina has indicated that she is unavailable that week. She is in Ottawa, I believe. One or two other members of the committee have indicated to me that they are also not available. I'm opening it up for discussion. I don't really have a date here to propose. I guess we could go to the 21st or 23rd. The 22nd is a difficult day for some members of this committee, I know. Can we open it up for your comments as to your availability in the next couple of weeks?

Yes, Thomas.

Mr. Lukaszuk: Are we going to throw dates? The 21st on my calendar is a very appropriate date.

The Chair: The 21st has been suggested.

Ms Kryczka: The 21st and 23rd are not good for me.

The Chair: The 21st is not good for you? Okay. Well, the 22nd is out for, I think, several members of this committee.

Mr. Lukaszuk: The 23rd is out as well for a couple of them.

Ms Kryczka: How about the 28th?

The Chair: The one problem with the 28th is that, you know, we're getting close to the end of the month.

Dr. Pannu: And the date of the federal election is the 29th.

Some Hon. Members: It's the 28th.

Dr. Pannu: So let's not have a meeting on that day.

Mr. Lougheed: That's in *Hansard*, Raj.

The Chair: Question. Ms Blakeman.

Ms Blakeman: The reasoning for not meeting next week is because of the absence of Catarina? What is on the agenda? Is there any way that we could work through the meeting without her being here? We're booking a long way ahead now.

The Chair: It probably wouldn't be impossible, but certainly Catarina has been one of those who's contributed greatly to this.

Do you have any comment on that, Catarina?

Ms Versaevel: I have no comment. I think you were mentioning my absence and a few other members who were not available. It is the committee's choice.

Ms Kryczka: Well, while we are doing this, can we try to plan two or three meetings in advance? Because for me – I've been booked, and you know I have trouble – not until really the 28th.

The Chair: Before we get into two or three more, could we finalize the next one? How many members can't come on Monday, June 21? How many can't come on the 23rd? Committee members, we would really like to get this done as early in June as we can. It looks like the 21st is now our earliest opportunity. I understand that some members have trouble with that day, but it looks like the 21st would be the best date for the majority of the committee. Can we agree on June 21 for our next meeting to review the document and, hopefully, get it ready for release? All in favour, say aye.

Hon. Members: Aye.

The Chair: Opposed? I assumed I would have two noes.

That would be the same time, 9 a.m. to 4 p.m. Okay.

All right. Now, Ms Kryczka has suggested that we do some more dates. Assuming that the committee comes up with a final document on June 21, would a member of the committee please advise the committee as to process? We'll have to send the document out, give people time to respond. So what would be a reasonable date that we would want to start rescheduling meetings?

Yes, Mrs. Sawchuk.

Mrs. Sawchuk: Thank you, Mr. Chairman. I would think that we would have to have anywhere between four to six weeks after the advertisement runs for responses and submissions from stakeholders to come in and then for staff to work on those responses. So I would think that our next meeting after June 21 wouldn't be until the first week of August, first or second week. It'll depend on whether the committee completes its review of the consultation guide on the 21st and we can go ahead with advertising.

The Chair: I'm optimistic, after hearing the comments today and after seeing the way the information was presented, that the committee will have a very good chance of completing the document in one day.

So, then, let's move to August and see if we can schedule. Is there a week in August, like the week of the 4th or the 8th? The 4th is a Wednesday. Are there any days in those first two weeks in August that we could schedule even back-to-back meetings? If all members are in Edmonton, we could maybe do meetings on successive days. [interjections] I have a suggestion for August 10 and August 12. What does that look like to the other members of the committee?

Mr. Lougheed: Fine.

The Chair: That doesn't work for you, Ms Blakeman?

Ms Blakeman: Nope, it won't, but I might be the only one.

Mr. Broda: August 3 and 5?

Ms Blakeman: Yeah, that's better.

Mr. Broda: The 4th?

An Hon. Member: I'm away the first week of August.

2:40

Ms Kryczka: Is nobody else taking any holidays?

The Chair: Would that give the staff time to get things done if we went to the 10th and 12th of August?

Okay. Catarina and Wendy, would that give you time, would you anticipate, to respond?

Ms Robillard: Yeah. Presuming that we have responses that come in, yes, I think we can summarize those and bring some information to the table.

Ms Blakeman: Would you be able to do it if it was a week earlier that we were meeting?

Ms Robillard: My only concern with a week earlier is that by the time we publish and get it out, that only leaves people maybe two or three weeks to have something back to us.

Ms Blakeman: That's not enough time. Okay.

Mr. MacDonald: We should put this off till September, the middle of September, Mr. Chairman.

Some Hon. Members: No.

The Chair: Well, it's really a challenge to get 10 busy people to agree on the same two days. I realize that, and I'm sorry about that.

Ms Kryczka: Could you suggest some alternate dates and then see a show of hands?

The Chair: Alternate dates. Okay. The 17th, the 18th.

Mr. Broda: The 17th is no good for Hector. [interjections]

The Chair: How many can't come on the 17th? Okay.

I'm going to suggest that we go with August 10 and 12. We would ask that you keep those two days open.

Mr. Lukaszuk: Which ones?

The Chair: August 10 and 12. If something happens that we don't need the 12th, we'll certainly let you know. All-day meetings.

Mr. Goudreau: Mr. Chairman, that's when we would also hear public submissions?

The Chair: It will be public, yes.

Mrs. Sawchuk: No.

The Chair: Oh, it won't. Sorry. What will we be doing then?

Mrs. Sawchuk: Mr. Chair, actually, at that point the submissions will just be coming in as a result of the advertising and people receiving the consultation guide, so you're going to have to see the submissions to determine if you want to hear from these parties or even if they want to be heard. They might just send in a written submission, and that'll be the end of it.

Then you'll be deciding, based on those submissions, whether some of these parties are going to come in and speak to the committee and answer questions or whatever.

The Chair: Hector, I see you're a little pensive still.

Mr. Goudreau: Yeah. I can't see why both cannot go on at the same time, where we ask for written submissions, and those that wish to appear before us could still do that if they were prebooked and if they knew ahead of time.

The Chair: Okay. We seem to have a question here. The debate seems to be: why can't we do it all at the same time? The other side is, well, the committee has to decide on whom they want to hear. Would we not hear from some? You know, if they want to be heard, why would we not hear them on the 10th or the 12th?

Mrs. Sawchuk: So you're asking staff to make the decision?

The Chair: Would this committee be against hearing from anybody that says that they want to be heard?

Some Hon. Members: No.

Mrs. Dacyshyn: So you're saying that if we get a letter, then we would just say, "Okay; yes, you can meet before the committee," and we'll schedule them? Is that what you're saying?

The Chair: Why not?

Mr. Snelgrove: Well, I would certainly like to see how we work through our document here to make sure that we're going to know what we're looking for and what we're asking for and what the committee's approach would be. I can see the problem. Seeing as the first time we're getting together after next week is the 10th of August, you want to start telling us – we'd better make sure that we know what we're asking or listening for. You may not need the 12th.

The Chair: Point well made. It's just been pointed out to me that there were groups who applied to be heard at the FOIP committee and did not have the opportunity for various reasons.

Mrs. Sawchuk: The staff didn't decide, Mr. Chairman.

The Chair: The staff did not decide; the committee decided. So it's probably fair to leave that to the committee.

I think Lloyd's point is good. Certainly on the 21st, when we get through the finalization of the paper and see how that goes and know what's going to be out there, we could have another discussion about this. In the meantime we'll schedule those two days, and we will review the documents that we have received.

I'm sympathetic to Hector's point that if there's any way to do it more efficiently, let's do it. Well, now that I think back to the FOIP committee, I can remember that there were some interesting situations that arose which caused considerable – I see Mr. MacDonald agreeing – debate in the committee itself as to whether they would or would not be heard. So maybe it is a huge step forward, Hector, to expect to make that decision before the end.

Mr. Goudreau: Well, Mr. Chairman, I'd be prepared to defer that decision to at least the 21st, you know, after we've seen more information and had time to think about it.

The Chair: Thank you.

Yes, the hon. Member for Clover Bar-Fort Saskatchewan.

Mr. Lougheed: Thank you, Mr. Chairman. It would seem appropriate to pencil these in and decide on the 21st, as has been suggested.

The Chair: Sure. Good idea. Yeah, we would ask that you do that, and then we can finalize them on June 21.

Ms Kryczka: I'll speak for myself, and I don't know if Ms Blakeman would agree with me. I would just like to suggest that we pencil in an additional day when both her and I would be able to be present to hear if there are any additional presentations. With holding presentations on the 10th and the 12th, when neither of us will be here, and if there are additional ones, I would just like the committee to consider an additional date or dates when for sure we are able to be here.

Mrs. Dacyshyn: Mr. Chairman, my understanding at least for now, until the next meeting, is that those meetings in August at this point will be scheduled in order to review paperwork only, the submissions that come in in writing and the summaries that have been prepared by the technical support team. So you will have access to those documents as well as everybody else. That's my understanding at this point.

Ms Kryczka: Okay. That wasn't mine. So that's fine. Yeah, that's good.

The Chair: I'm sure that that's what it will be. It should be.

Ms Kryczka: It'll be like working meetings. Okay. Yes.

The Chair: By all means, they should have copies of all documents and certainly could give written comments or observations.

Yes, Dave.

Mr. Broda: Thank you, Mr. Speaker.

The Chair: Speaker? Wow.

Mr. Broda: Well, it suits you.

Even though we have the 10th and the 12th, we know that we're going to have further meetings. Could we set those now? I'm looking into August. I'm filling up and the same with September, so it'd be nice to know ahead of time. We know that we're going to have these presentations done. Could we set them now?

The Chair: Okay. Good point. So, Karen or Corinne, you're saying that we should wait two weeks?

Mrs. Sawchuk: Yes, because there'll be work that will be generated from those two days.

The Chair: Okay. So the earliest would be the week of the 23rd to the 27th then. On the week of August 23 to 27 do you have a suggestion for days, Dave?

Mr. Broda: That week is actually open for me. I'm just saying that if I'm going to book them, let's do it. I don't know how the rest of the people are. Monday and Tuesday look good.

Dr. Pannu: Mr. Chairman, I won't be available from the 22nd of August to about the 10th of September.

The Chair: Okay. Any other observations?

With all due respect we'll probably never get days when we can get a hundred per cent attendance, unless we want to go to 2009.

Dr. Pannu, you know, we would certainly make available to you any information that's going to come, and if you wanted to make comments or written comments, that would be great.

Okay. Any other comments on the week of the 23rd through the 27th? Do you want Monday/Tuesday, or do you want Tuesday/Wednesday? Okay. Karen, is Tuesday/Wednesday okay with you?

2:50

Ms Kryczka: I'm just suggesting. Yeah. Fine.

The Chair: Okay. I've got a suggestion of August 24 and 25 from the deputy chair. All agreed, by a show of hands. Opposed? Okay. By majority rule we'll do it, I guess.

Mr. Snelgrove: Well, if you want a sacrifice, I'll take the time off with Dr. Pannu.

The Chair: That's very kind of you, Lloyd. Greater love hath no man than this.

Ms Blakeman: Keep going. Next meeting.

The Chair: I think that's probably as far as we can go at this point.

So we have June 21, August 10, August 12, and August 24 and 25 as optional dates or dates that we will meet if needed. We won't schedule a meeting if we don't need to.

Mr. Snelgrove: Motion to adjourn.

The Chair: All in favour, please say aye.

Some Hon. Members: Aye.

The Chair: Opposed?

Sorry, Ms Blakeman. Did you have a comment?

Ms Blakeman: Yeah. My concern was that I wanted to see if we were expecting to have oral presentations made. If we could try and set those dates at this point so that we had some idea of what we were aiming for for publicity purposes or for the staff. I'm assuming that those would now be in September. You're assuming it's August?

The Chair: I would assume that those would be made after the committee deliberates on the 10th and 12th. They would use the next dates that have been set aside for oral presentations if the committee decides that they want some oral presentations.

Ms Blakeman: Well, I think that that's an issue, because it pretty much cuts out the medium and smaller sized nonprofit sector. Trying to get them in the summer is just not going to happen.

An Hon. Member: We don't know.

Ms Blakeman: Well, I come from that sector. I'm pretty comfortable in saying that that's the likely outcome of it. I think that we've got to be cautious of that because it puts us in a position of looking like we didn't really want to hear from them.

The Chair: Mrs. Sawchuk, did you have a comment?

Mrs. Sawchuk: Mr. Chair, I think the only thing I could suggest is that we may need more than two days to hear. The committee could decide that if they have enough submissions – it may be that there's an overwhelming number that want to actually appear before the committee. We didn't have that before, but it could happen. So any overflow could go into September, you know.

I think that if we set too many dates too far in advance – we're just so uncertain right now what the advertising is going to generate. Will we get 200 responses or a thousand? That makes a big difference on how much time . . .

Ms Blakeman: That's true, but it's easier for us to cancel a date that we've all put into our daytimer than it is for us to try and find a date when we get closer to it.

The Chair: Do you have a suggestion for a date, Ms Blakeman?

Ms Blakeman: Sometime after the 1st of September. I'm just concerned that we move away from August.

The Chair: Okay. We will go into September and schedule a couple of meetings if we can find them. I don't think that the committee would not want to give someone a chance from wherever. So if they do express a desire to be heard, we'll certainly give that serious consideration.

Yes, Rob.

Mr. Lougheed: We could try the week of the 13th and find some dates in there.

The Chair: Are you talking September 13?

Mr. Lougheed: The week of the 13th.

The Chair: Okay. I have a suggestion for the week of September 13. September 13 and 14: is that okay? We'll do a vote in case we need it. So we have agreement to that, the 13th and 14th of September?

Hon. Members: Yeah.

The Chair: Is that far enough in the future for everyone?

Ms Kryczka: Yeah. That's great.

The Chair: Okay. We've already voted to adjourn, so unless there are other things, we are adjourned.

[The committee adjourned at 2:55 p.m.]