
Legislative Assembly of Alberta

The 27th Legislature
Second Session

# Standing Committee
# on
# Health

Bill 52, Health Information Amendment Act, 2009

Wednesday, May 20, 2009
2:32 p.m.

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**Legislative Assembly of Alberta**
**The 27th Legislature**
**Second Session**

## Standing Committee on Health

Horne, Fred, Edmonton-Rutherford (PC), Chair
Pastoor, Bridget Brennan, Lethbridge-East (AL), Deputy Chair

Blakeman, Laurie, Edmonton-Centre (AL)*
Dallas, Cal, Red Deer-South (PC)
Denis, Jonathan, Calgary-Egmont (PC)
Fawcett, Kyle, Calgary-North Hill (PC)
Notley, Rachel, Edmonton-Strathcona (ND)
Olson, Verlyn, QC, Wetaskiwin-Camrose (PC)
Quest, Dave, Strathcona (PC)
Sherman, Dr. Raj, Edmonton-Meadowlark (PC)
Taft, Dr. Kevin, Edmonton-Riverview (AL)
Vandermeer, Tony, Edmonton-Beverly-Clareview (PC)

* substitution for Kevin Taft

## Department of Health and Wellness Participants

| | |
|---|---|
| Mark Brisson | Acting Assistant Deputy Minister, Information Strategic Services Division |
| Martin Chamberlain, QC | Corporate Counsel/Director, Legal and Legislative Services |

## Support Staff

| | |
|---|---|
| W.J. David McNeil | Clerk |
| Louise J. Kamuchik | Clerk Assistant/Director of House Services |
| Micheline S. Gravel | Clerk of *Journals*/Table Research |
| Robert H. Reynolds, QC | Senior Parliamentary Counsel |
| Shannon Dean | Senior Parliamentary Counsel |
| Corinne Dacyshyn | Committee Clerk |
| Erin Norton | Committee Clerk |
| Jody Rempel | Committee Clerk |
| Karen Sawchuk | Committee Clerk |
| Rhonda Sorensen | Manager of Communications Services |
| Melanie Friesacher | Communications Consultant |
| Tracey Sales | Communications Consultant |
| Philip Massolin | Committee Research Co-ordinator |
| Stephanie LeBlanc | Legal Research Officer |
| Diana Staley | Research Officer |
| Rachel Stein | Research Officer |
| Liz Sim | Managing Editor of *Alberta Hansard* |

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**2:32 p.m. Wednesday, May 20, 2009**

[Mr. Horne in the chair]

**The Chair:** Good afternoon, colleagues. I'd like to call the meeting to order. We have a number of members present in the room, and we have a couple by phone as well. Just before we do introductions, I'll indicate that Mr. Dallas and Mr. Fawcett are joining us by telephone. Are you both there, gentlemen?

**Mr. Dallas:** Yes. Cal Dallas here, Mr. Chair.

**The Chair:** Mr. Fawcett, are you there?

**Mr. Fawcett:** I am here, yes.

**The Chair:** Okay. We'll just go around the table and ask members and staff to introduce themselves.

**Mr. Vandermeer:** Good afternoon. I'm Tony Vandermeer, MLA for Edmonton-Beverly-Clareview.

**Ms Notley:** Rachel Notley, MLA for Edmonton-Strathcona.

**Ms Blakeman:** Well, I can't tell you what a thrill it is for me, Laurie Blakeman, to welcome each and every one of you to my fabulous constituency of Edmonton-Centre.

**Ms Friesacher:** Melanie Friesacher, communications consultant, Legislative Assembly of Alberta.

**Dr. Massolin:** Good afternoon. Philip Massolin, committee research co-ordinator, Legislative Assembly Office.

**Ms LeBlanc:** Stephanie LeBlanc, legal research officer with the Legislative Assembly Office.

**Ms Dean:** Shannon Dean, Senior Parliamentary Counsel.

**Mr. Chamberlain:** Martin Chamberlain, Alberta Health and Wellness.

**Mr. Brisson:** Mark Brisson, Alberta Health and Wellness.

**Mr. Quest:** Dave Quest, Strathcona. It's great to be here in Edmonton-Centre.

**Ms Norton:** Erin Norton, committee clerk.

**The Chair:** I'm Fred Horne, chair of the committee and MLA for Edmonton-Rutherford.

We have a few items of business to take care of, beginning with approval of the agenda. Can I ask, please, for a motion to approve the agenda as circulated? Mr. Quest. Any discussion? Those in favour? Opposed, if any? It's carried. Thank you.

Item 3 is adoption of the minutes of the meeting of May 11, 2009. Can I have a motion, please, to adopt the minutes as distributed? Mr. Vandermeer. Any discussion?

**Ms Notley:** I'm just looking at the minutes from May 13.

**The Chair:** Can I come to those in just a moment? I was going to do two motions.

**Ms Notley:** Oh, I'm sorry. We're not at May 13?

**The Chair:** No. We're just on May 11.

**Ms Notley:** Sorry about that.

**The Chair:** That's fine.

Further discussion? Those in favour? Opposed, if any? That's carried.

The minutes of the meeting of May 13. A motion, please, to approve the minutes. Mr. Vandermeer. Ms Notley?

**Ms Notley:** Yes. It seemed to me – and this doesn't necessarily need to be reflected in the minutes – that when we looked at those draft amendments, there was discussion about coming back once we'd had a chance to actually look at the legislative amendments in a bit more detail. Will we be able to do that today?

**The Chair:** Sorry. I'm not sure I'm following. We had an initial discussion, I believe, on May 11 at the conceptual stage. The amendments were brought back in legal draft.

**Ms Notley:** They were, and when they were brought back in legal draft, I remember saying: it is very difficult to actually look at the legal draft and look at the amending bill and look at the original bill and try to understand exactly what was happening. At the time I believe you said: well, if there are additional comments about these, we can address them next week. That was my understanding. It's my hope that we can do that.

**The Chair:** Well, time permitting, certainly. We have some other amendments that have been brought forward, which we're going to deal with first.

**Ms Notley:** Okay. I do recall it being quite clear that we weren't in a position to really pass any kind of judgment on the legislative amendments that were put forward because we'd only received them, and I thought there was an opportunity to discuss those as well today.

**The Chair:** Well, barring other interpretations, we did pass a motion approving those amendments at the last meeting of the committee. If there are questions around clarification, we can certainly deal with those.

**Ms Notley:** Well, I'd like a chance to just have a bit of a discussion on them.

**The Chair:** Fair enough.

On the motion to approve the minutes of the May 13 meeting as moved by Mr. Vandermeer, those in favour? Opposed, if any? That's carried.

Mr. Dallas and Mr. Fawcett, you'll have to remind me if I don't ask for your vote verbally. My apologies.

Just for the record I would note, please, that Dr. Sherman, MLA for Edmonton-Meadowlark, is joining the meeting.

**Dr. Sherman:** My apologies for being late, Mr. Chair.

**The Chair:** No problem.

Item 4, then, is business arising from the May 13, 2009, committee meeting, and the first item is the draft amendments which were put forward at the last meeting by Ms Blakeman and Ms Notley.

We'd like to take an opportunity now to go through these, and I'll ask Ms Blakeman to begin.

Just before we go on, do all members have a copy of the amendments? They were posted to the internal website earlier today. If not, we have hard copies here. Does everyone have a copy? If you don't, please ask the clerk. We have some extras.

Ms Blakeman, would you like to proceed with the two amendments you proposed?

**Ms Blakeman:** Yes, I would. Thank you. The first one is the longer version. If you're someone that likes visual aids, it's the one with more stuff on the page. It is amending section 22 by adding the following under the proposed section 72.3. Let me explain this. The new bit to this legislation is all of the requirements around the health information repositories. What I was trying to do was make things match up as much as possible with the expectations and requirements that we had from regular custodians under the Health Information Act, and I'm working to try and keep up the public confidence in the act and in the health information.

I think there are a couple of areas where people have serious reservations and concerns around it. This longer version is to make sure that people can get their personal health information corrected if it is held by a health information repository. It is adding after the proposed section 72.3 72.4(1), that where a custodian has made a correction, the custodian has to notify a health information repository that they have disclosed information that a correction should be made and advise the health information repository to do same; that the health information repository is notified and there's an assumption that they will make that correction as well; that the individual whose health information it is can go to the commissioner to review a failure of a custodian to notify a repository and a failure to correct, in essence.

***2:40***

Then sections 74 to 82, which mirror what's in place under the rest of the act, basically put it in place for health information repositories and then underline again that duties and responsibilities of the custodian as outlined in those sections apply to the health information repository. So it's really making sure that an individual is going to get their information corrected and that they have the ability to go to the commissioner to ask him to take on the same role in ensuring that as he could be asked to do with information held by a custodian. Does that make sense? Does anybody want to ask me any questions about that? Up there in the sky on the telephone, questions?

**The Chair:** Any questions from members or questions or any comment from department officials or Parliamentary Counsel?

**Mr. Chamberlain:** Mr. Chair, we had a quick look at this and didn't have any concerns with this particular amendment.

**Ms Blakeman:** Thank you for the support.

**The Chair:** Ms Notley on this amendment.

**Ms Notley:** I absolutely support the principle and what we're trying to get at with the amendment. I don't know if anyone else or if you can explain this to me. With the amendment as it exists now, my concern is that the individual would have the ability to go to the commissioner to review a failure to correct the information, but given the way the act exists right now, where they have no ability to review the information, how would they know there had been a failure to correct the information?

**Ms Blakeman:** The first part of it is linking to a correction of information with a custodian, and for that – correct me if I'm wrong, Parliamentary Counsel – they do have the ability right now to ask to see what the record is that's being held by the custodian, to request that the information be changed, and then this would pick up at that point and say: "Okay. If the custodian has corrected it, they will notify any health repository that they've sent information to, saying to please make this correction."

**Ms Notley:** My concern would be: how would we know if the health repository had done it? The idea is to give the commissioner the ability to review those circumstances where an individual is of the view that the health information repository has not corrected the information. But how do they know? We know that they've been asked to, but how do we know that they have? At this point the health information repository has so little oversight and is so disconnected from other obligations under the act.

**Ms Blakeman:** You're right. I think there is no ability for an individual to access the information held by a health repository, to ask to see their information. There's an assumption in here that a health repository corrects it as given notification by a custodian, but there's no way to check it.

**Ms Notley:** So then the problem is: does the commissioner have the jurisdiction to review without the individual having some grounds to suggest that the health information repository hasn't done it?

**Ms Blakeman:** Okay. Now I'm going to look to Parliamentary Counsel.

**Ms Notley:** Sorry. I want it to be meaningful, and I want it to end up where you want it to go.

**The Chair:** If I could, it's an important point, and I was going under the assumption that sub (5) here, as you propose, Ms Blakeman, would hopefully address that by assigning the duties and responsibilities of a custodian. Maybe counsel can help us with it.

Go ahead, Ms Notley.

**Ms Notley:** As far as I know, sub (5) refers to sections 74 to 82, which talk about the powers of the commissioner, but that's the powers of the commissioner in relation to a breach which arises from other applications of the act. Sections 74 to 82 talk about the prosecution of a failure to adhere to the act, but it's other parts of the act that need to be breached in order for 74 to 82 to become crystalized, as it were.

**Ms Dean:** Ms Notley raises a good point. Mr. Chamberlain has pointed out some wording in section 13(3) that possibly could be imported into this amendment that would perhaps address Ms Notley's concern, the wording being something to the effect that there would have to be notification provided to the individual about the correction. Presumably, if the notification doesn't follow, then the individual would be complaining to the commissioner.

Mr. Chamberlain, do you have anything to supplement there?

**Mr. Chamberlain:** Just a question. I'm not sure if the correction would go back to the custodian who's asked for the correction to be made or go back to the individual, but either concept would work. The correction sections do have that requirement to get back to the individual and advise as to whether or not the change has been made. In this particular case, the way the amendment is drafted, the

correction must be made, so all you'd be doing is getting back to the individual with a written confirmation that the change has been made. That's really all you could do without opening the doors to reviewing the information, which has its other problems.

**Ms Blakeman:** Okay. So if we import, then, all of 13 or 13(3)?

**Mr. Chamberlain:** It would just be a slightly reworded 13(3)(b), just to oblige the HIR to make the correction and provide notice to the individual that the correction has been made.

**Ms Blakeman:** Does that address your concerns?

**Ms Notley:** Again, I'm only thinking of some issues that I've had arise in my constituency office. It still requires the person to go on trust, right? I mean, everyone wants to be able to see if it's been changed. Often you'll see cases where people have been notified that something has been changed, and then when they see it, they discover it hasn't actually been changed. But it certainly goes much further, and I think what I'm getting at is a bigger issue. It probably makes sense to separate it out because I'm asking for more, so in that respect I think it's fine. It's okay.

**Ms Blakeman:** Can we organize to get that section 13(3)(b) added into this amendment?

**Ms Dean:** Certainly. What I would suggest is that if the committee is in support of this amendment with that principle being incorporated into the wording, you leave it to Mr. Chamberlain and I to work out the fine details, and we'll circulate that ASAP.

**Ms Blakeman:** I'm okay with that if that's okay with the chairperson. It works with the intent of what I was trying to do, so yes, I'm happy with it.

**The Chair:** Just in terms of process, then, are you suggesting that we could turn this around right here? We will need to have a motion here.

**Ms Dean:** If you can give us a few minutes – perhaps you want to proceed to some other amendments – we'll work on that right now.

**Ms Blakeman:** Okay. I can go on to the second amendment.

**The Chair:** Just before you do, Ms Blakeman, Dr. Sherman, did you have a comment on this amendment?

**Dr. Sherman:** I just had a question of Mr. Chamberlain. Right now a patient has a full right to look at their record in their doctor's office, and if there's a mistake or a misdiagnosis, they can change it. Now, on the operational end, in a repository, when a physician makes a change or an addition or a deletion, will that automatically in real time change in the repository? Ideally, to correct that information, it's the health care provider, generally speaking, who currently has that ability.

**Mr. Chamberlain:** I don't want to put words in Ms Blakeman's mouth, but I understand that was exactly the concern she was trying to address with this change. When this came up at the last meeting, our concern was that if you went to the health information repository to make a change, that creates record problems because in our world you need to go to the source to make the correction so that the root data is corrected.

Under the amendment that Ms Blakeman has proposed, a custodian, after assessing whether or not the change should be made, whether or not there is, in fact, an error, and making the determination to make a correction, having decided to make a correction, would then have a positive obligation to advise the HIR, and there's a positive obligation in the amendments to require the HIR to make the change. Then it also incorporates the commissioner's review powers so that if they didn't make the change for some reason, the commissioner could order that change. Then there are court order and offence sections that kick in to give the commissioner the power to enforce that order.

***2:50***

**Ms Blakeman:** That's why I did this amendment. There was nothing in the rest of the act that talked about an ability to change information held by a health information repository, so this is to do that. That information that's changed in the source documents would flow through and be changed in a health information repository, and the commissioner has the ability to come in and make sure that's happened in the same way it mirrors what's possible with health information held by a custodian. Okay?

**Dr. Sherman:** Thank you.

**The Chair:** Thanks a lot, Ms Blakeman. The next amendment.

**Ms Blakeman:** It's the shorter one, which is that section 22 is amended by adding the following after the proposed section 72.3. I've got two pieces of legislation here. The intent of this change was trying to address, I think, a deep-held concern or fear by the public that their health information will somehow be used for commercial or marketing purposes, that their health information would be sold or that it would be used to come back to market something to them, you know, blood pressure pills or cuffs or some sort of health-related cost, and they would be direct marketed. This is my attempt to try and address that information held by a health information repository could not be used for commercial or marketing purposes.

This is, again, back to that new section, part 6.1, which is the health information repository, which is the new section to this bill, and section 72, dealing with a number of changes to do with health information repositories. This gets added under 72.3, and it's 72.4(1): "Despite any consent provided under this Act, no health information repository shall knowingly use health information to market any service for a commercial purpose or to solicit money." Then the second section is including a fine if they're found guilty of an offence, a fine that matches the other fines that are found in a similar section under 107. Again, this is to try and address that fear about marketing.

I'm concerned as well about a recent ruling that came through Alberta courts, which ruled that because someone had given permission to a doctor to perform a health service, the courts saw that and deemed it to have also given permission for the information to be used for marketing. Basically, people were sent information about a golf tournament or something that was being held to raise money as another part of a doctor's activities. A couple of people brought this forward and said: they should not have used my personal information to contact me about something else that was beyond the reason I went to see the doctor in the first place.

The other interesting thing about that particular case is that a lot of the services of that doctor would not have been paid through health care services prior to this. What's being brought forward under this act is, of course, the section that incorporates health information that is received even though the service may not be paid

for under health care. In other words, that's capturing the dentists and the pharmacists, but it's also capturing health services like cosmetic surgery and things like that. I just wanted to make sure that even given that particular court ruling, the information held in a health information repository could not be used either to market back to someone or that their information could not be used for further commercial purposes. So that's the intent of that.

**The Chair:** Thank you. I have a feeling there'll be a few questions about this one.

**Mr. Fawcett:** Mr. Chair, I have a question.

**The Chair:** Go ahead, Mr. Fawcett.

**Mr. Fawcett:** Yes. So is the intent of this amendment to not allow medical foundations to use this information as well?

**Ms Blakeman:** Well, this is appearing under the section around health information repositories, so I don't know that you would usually find medical research under this. A foundation wouldn't usually turn up under this section. This was specific to information that's being held and can be data matched back, of course, by health information repositories. Correct me if I'm wrong, anybody else that wants to jump in.

**Mr. Chamberlain:** Just a few comments on it. The initial concern is that it does in fact duplicate to a certain extent what's already in 107, which applies to any person, including health information repository. To the extent that it doesn't, our concern on a quick read is that it's very broad, overly broad, and may preclude legitimate research activities that ultimately end up in new drugs or other services that may have a commercial purpose. It also gets away with any ability of an individual to consent to their information being used in any particular way, which also causes us some concern.

**Ms Blakeman:** I'll address that. This was raised by Parliamentary Counsel, that section 107 already captures this, but in fact it doesn't because it sets out by saying, "No custodian or affiliate of a custodian shall knowingly," et cetera, et cetera.

Fingers are being held up. Help me.

**Ms Dean:** If you look at the opening language of 107(2), it says "no person." The offence isn't limited to custodians or affiliates. It says "no person."

**Ms Blakeman:** I still think we need to be clear about this. For public confidence I think we need to be very clear that we are including health information repositories. In other parts of this act it sets up that a custodian is not a health information repository because it talks about the relationship between the two of them. It depends on which version of the act you've got. You've got to look at the original act.

**The Chair:** The Health Information Act.

**Ms Blakeman:** Yeah. So I think it's important that this is in here. I think this is where people really start to feel that the information is getting away from them and that by participating in a regular health service with a physician, their information gets provided to a health information repository, they've lost control of it, and it can be either used to market back to them or their health information can be sold. I think we want to be really clear that that's not the case because I think this is where people start to not co-operate with us, when this is the fear.

**Mr. Fawcett:** Mr. Chair, I have another question for the department officials.

**The Chair:** Go ahead.

**Mr. Fawcett:** There was mention of legitimate research activities, that this amendment might be too broad and eliminate, essentially, moving forward with those activities. Can you provide an example of what you mean by legitimate research activities?

**Mr. Chamberlain:** A couple of quick ones come to mind. I haven't given it a lot of thought, but one would be the islet process that was developed by the U of A to deal with diabetes. A lot of research would be involved in dealing with that. That research obviously led to a process that could in theory be commercially applicable. Drug companies also do research on drugs and diseases, which may ultimately lead to the development of new, better drugs or drug processes. Any kind of research like that could have a commercial purpose. The scope of the proposed amendment moves to all health information, not just identifying health information, so it's quite broad. Our concern was that it could impact on legitimate research like that that's done in the medical community all the time.

**Ms Notley:** Well, you know, I would share your concern were the clause reading: shall knowingly use health information for a commercial purpose. But what it says is "use health information to market any service for a commercial purpose." So I don't think that the example that you provide would actually reasonably fall within this language because this language talks about marketing. If there are other examples, I'm happy to hear them, but I don't know that the example that you provide would reasonably fall within this language. I don't think it would go very far because there's a difference between researching something that might ultimately be the subject of a commercial activity versus marketing.

***3:00***

**Mr. Chamberlain:** I guess the concern is that the language is quite broad. If the health information repository knowingly used the information, providing it to a researcher knowing they were going to be developing commercial, that might get caught by this section.

The other concern we had, which is relatively minor but is actually a practical concern, is that health information repositories may be charging fees for providing their services, providing the data matching and providing the information. Even if they were a nonprofit health information repository, they'd still want to charge fees in order to manage the service. This could potentially impact on that.

**Dr. Sherman:** Just on the research end, just for everybody, everything we're doing in medicine needs to be evidence based. There is a lot of stuff that's been done that really had no evidence, and we discovered we were putting people on antibiotics we didn't need to put them on. We were doing X-rays and lab tests and treatment that we didn't need to do. Medicine is going through this evidence-based research on every aspect, every diagnosis, and it's absolutely vital that we get as much accurate information as possible to be able to restudy these. In fact, it's usually the universities and sometimes pharmaceutical companies. It's a way to actually see what kind of research was done on the data by the pharmaceutical companies, so it's vital that we be able to research all the data and that much is

accurate data. I think you've introduced an amendment that may help us get to that as well. Just as a comment.

**The Chair:** Thank you. I don't have anyone else on the speakers list.

Parliamentary Counsel has advised me that they have some revised wording available to us for the first amendment. Ms Blakeman, what I'd like to suggest, then, is that we'll deal this amendment, the second amendment, now, and then we'll go back to your first amendment.

**Ms Blakeman:** Sure. Would you like me to move that this amendment be accepted by the committee and incorporated in recommendations that go back to the Assembly?

**The Chair:** Certainly. Ms Dean, is that motion adequate for our purposes here?

**Ms Dean:** Sure. Ms Blakeman is moving that her
> amendment as distributed is to form part of the recommendations in the committee's report.

**Ms Blakeman:** Yes. That's exactly right.

**Mr. Vandermeer:** This is the second one?

**The Chair:** Yes. We're dealing with the second one. Any discussion on this?

**Mr. Vandermeer:** In light of what Mr. Chamberlain has brought forward to us, I'm going to encourage people to vote against this amendment.

**The Chair:** Okay. Any other speakers? Gentlemen on the phone?

**Mr. Dallas:** Mr. Chairman, Cal Dallas here.

**The Chair:** Go ahead.

**Mr. Dallas:** If I might, I'll be speaking against the second amendment, the shorter of the two. Given the necessity of ensuring that our ability to conduct research from this data is unimpeded, I'll speak against and be voting against this amendment.

**The Chair:** Okay. Seeing no others, then, I'll call . . .

**Ms Blakeman:** Sorry. In speaking, I will close the debate, won't I?

**The Chair:** You're welcome to. Go ahead.

**Ms Blakeman:** Well, I'll encourage people to vote for it because I think we have become very aware while we have received the submissions from the stakeholders and the public that public confidence in where their health information is going and how much it's protected is a key part of what we are trying to uphold and maintain here. We have had a suggestion that there might be a concern around research but no compelling evidence that was presented by the department officials. I would hate to see this amendment lost because of a possibility in the future. I think I've been careful to indicate that this is to address – and anyone that's read the comments and the debate thus far in *Hansard* would have it clear that this was to make sure that the health information maintains its integrity for the purposes for which it was intended.

I think most people are clear that when it goes to the health information repository, it is going to get used for research. It's just that nobody wants to see this information marketed back to them. In absence of compelling evidence presented by the department that this would somehow stymie this research, I would argue that the amendment should be supported because it certainly does assist people in having confidence in the system that the information would be used as it was intended.

So please support the amendment. Thank you.

**The Chair:** Thank you very much, Ms Blakeman.

I'll call the question, then. Those in favour? Those opposed? I'll ask Mr. Dallas.

**Mr. Dallas:** Opposed.

**The Chair:** And Mr. Fawcett.

**Mr. Fawcett:** Opposed.

**The Chair:** Okay. That is defeated.

I'd like to go back now to the first amendment that Ms Blakeman brought forward. We'll pause for just a second. Ms Dean, do you have some revised wording that you'd like to apprise us of?

**Ms Dean:** Thank you, Mr. Chair. What we are proposing is that the amendment would stay the same with the exception of subsection (2) in the proposed section 72.4. I'll read into the record what we've worked out with Mr. Chamberlain. Again, we're importing language from section 13(3). Subsection (2) would read:
> A health information repository that is notified pursuant to subsection (1) must, within 30 days,
> (a) make the correction or amendment according to the advice of the custodian, and
> (b) provide written notice that the correction or amendment has been made to the custodian, who shall then notify the individual who is the subject of the health information.

**The Chair:** Ms Blakeman.

**Ms Blakeman:** Yes. That satisfies what I was looking for.

**The Chair:** Thank you.

Before I ask Ms Blakeman to move this, then, any discussion or questions on the revised wording that has been read into the record?

Okay. Ms Blakeman, then, would you like to move that?

**Ms Blakeman:** I will move that
> the committee accept this recommendation and include it in its report back to the Assembly for consideration for amendment to the originating bill.

**The Chair:** Thank you.

Discussion on the motion?

**Mr. Vandermeer:** Just in support of it, that I'm fine with it. Seeing that nobody is objecting to it, I encourage everybody to vote in favour of it.

**The Chair:** Anyone else?

Ms Blakeman, did you wish to say something in closing?

**Ms Blakeman:** No. Just encouraging everyone to support it.

**The Chair:** Okay. The chair will call the question, then. Those in favour?

**Mr. Dallas:** Agreed.

**Mr. Fawcett:** Agreed.

**The Chair:** Opposed, if any? That is carried. Ms Blakeman, thank you very much for your work in bringing these forward.

We'll turn now to Ms Notley, who also has a number of amendments. Do any members not have a hard copy of Ms Notley's proposed amendments? Okay. Ms Notley, over to you.

***3:10***

**Ms Notley:** Thank you. Yes. I have four amendments that I'm putting forward. The last three deal in different ways with the issue of the health information repository. The first one deals with the issue of how custodians would be defined under the act and thus would have implications for the whole act as it relates to how custodian is defined.

Basically, as you know, Bill 52 has a section in it which proposes to amend the definition of custodian such that a custodian no longer needs to be either in partial or full receipt of public funding through Alberta Health Services. The second thing it does is that it also redefines health services, again, as a number of different activities engaged in by the health service provider, all of which receive either partial or full funding through Alberta Health Services or public funding. The consequences of the proposed change in Bill 52 would be to eliminate the need for health service providers to be in receipt of public funding, either partial or full. My amendment here is simply to undo that element of Bill 52 such that a health service provider who, as it were, gets into the arena must be in receipt of either partial or full public funding as is currently the case.

My rationale for that is twofold. The first one, on a broader level, is that, as I'm sure will come as no surprise to members of this committee and others, I remain very concerned about trends we have seen from the government with respect to health care and also previous reports and sort of theoretical plans, which have been put forward and then retracted and put forward and retracted, with respect to the growth of the private sector providing what are now publicly funded services within our health care arena. I appreciate that there are certain privately funded health care providers that currently exist within the arena, the examples being pharmacists, dentists, people like that. But even since the time that this was introduced to the point that we've gotten to now, we've already had, you know, for instance, chiropractors kicked out of the publicly funded arena.

I am very concerned about voting for an amendment which will ease the path, shall we say, towards additional delisting of what are currently either partially or fully publicly funded health services provided by health service providers who also fall under the same definition. That's my first reason for this. It's a big-picture rationale because, for reasons which we don't need to get into now, I do not support any kind of move towards delisting health care services or expanding the scope of health care services that are not publicly funded. While this is not the direct mechanism for that to happen, obviously, the implication is that it makes that change easier in this bill. That's my first concern.

The second thing relates to a matter that I'd tried to raise not very effectively last week in relation to the role of privately funded health service providers who may be employers or insurance companies or the Workers' Compensation Board. I did some research about that, and I became really quite concerned as a result of doing just this small amount of research. Basically, I just looked at the decision of the Privacy Commissioner around a complaint that had been raised by an employee when an occupational health and safety nurse got access to her health information on Netcare and then was able to use that information for what ultimately were determined to be employment purposes. Now, there's no question that that particular decision upheld the complaint of the employee, but the rationale for it was not one that gives me comfort that this would happen a lot in the future.

Now, in that particular case the reason it happened was because the employer as a hospital was already in the system through a different means. But by basically expanding this to include privately funded health service providers, what you do is expand the pool to every employer that has occupational health and safety staff of some type or another to get access, and there are a lot of employers out there that do that. In the Fort McMurray area there are a number of major employers who have a raft of staff that do occupational health and safety work.

I'd like to just read for the members an excerpt from the decision from the Privacy Commissioner that I think demonstrates the lack of clarity around how you stop an employer from getting health service information and it being used the wrong way. Basically, in the decision, for instance, they talk about occupational health and safety nurses, and they say that an occupational health and safety nurse "conducts health and physical demands assessment, evaluates and teaches injury prevention during assessment and makes recommendations for work suitability" and also "documents patient health and safety data on the employee file."

Then it goes on and says – and this is a decision written by the Privacy Commissioner, by the way – that an occupational health and safety nurse

> may provide a health service during the staffing process. An [occupational health and safety] nurse is also an employee of an organization and may provide employee management services for his or her employer. There are instances where the purpose for which an [occupational health and safety] nurse collects information more clearly aligns with managing and administering personnel than with the provision of a health service.
>
> The dual role of [these nurses] is reflected in the . . . "Privacy and Confidentiality Guidelines." The guide [itself] points out the challenge faced by [occupational health and safety] nurses when they must balance "the interests of both the employees as clients and the employers they work for."

They go on, saying that the employer in this particular case argued that their nurses "provide health services as well as manage personnel for their employer." The employer argued that it's reasonable that their nurses would "wear 'two hats' during the performance of their duties."

Then we go on. They talk about whether in this particular case the health service provided to the individual who launched the complaint was a health service or whether it was a management issue.

> The Complainant did not seek a health service from [her employer]; she sought a job. [The employer] did not provide any care or treatment to her for an illness. [The employer] accessed the Complainant's health records via Netcare to see whether her immunizations were up to date to determine if she was a suitable candidate to begin working. While this may protect her from exposure to a communicable disease, the action was taken because the Complainant sought a job.

In this particular case although there was a health service,

> it seems to me the [primary purpose was] employment management purposes.

In that case she was looking for a job.

Now, you look to those cases where what's happening is that the person has been injured at work, and we're trying to decide how best

to get her back to work, how best to accommodate her needs, how best to address her needs, for instance, under the human rights code with respect to the obligation to accommodate employees. What this decision shows as you read through it is that it's a very fact-based determination, and there is no clear-cut rule and there is no clear-cut dividing line, when an employer employs a health services provider, between where that health services provider provides a health service versus engages in management activities. There is not a clear rule.

What ultimately saved the individual in this case was the fact that she was actually applying for a job, but the discussion of the criteria and the commissioner's decision make it very clear to me that, for instance, for those 50,000 workers who work up in the oil sands, the majority of whom have employers who employ, for lack of a better term, company doctors, there is a real problem in terms of how that information is accessed and how it's used. This is not just an issue for the hundred thousand or so health care workers in the province, but it's also an issue for a number of industrially employed workers whose employers use health and safety nurses and company docs to manage these issues. So those people now get a way into the system because they would be privately funded health services.

*3:20*

To me – and I do know this from my previous life – the law on this issue is really deeply undeveloped, and it's changing every day. I will tell you that having in different contexts had to work with people whose medical issues interact with their livelihood, the risk that this poses to their privacy and ultimately their security of person and their ability to preserve their rights and their ability to make a living, all that kind of stuff, is tremendous and deeply concerning to me. I think that we have not given enough thought to how this would be done.

One answer, of course, would be for me to try and craft something in advance of what the law says and put that forward, but because we're moving so fast with this, I didn't have the capacity to do it. Of course, because of the first reason that I outlined, I also have concerns about opening the door this much.

I know that the Health Information Act committee previously had looked at the issue of opening the door to privately funded. Even there, though, the previous committee had suggested that that recommendation was one that should be subject to additional committee discussion and study. Instead, what we got was a bill, and what we're getting – you know, we've had some hearings from other people, and we've had about two or three meetings to discuss what all these amendments mean, and I don't think that it's enough. This really concerns me about what we're doing for people's privacy, so that is why I am proposing this amendment.

**The Chair:** All right. Thank you.

Maybe I'll just start by asking our officials or Parliamentary Counsel for any comment on this. Mr. Chamberlain.

**Mr. Chamberlain:** Yeah. The obvious concern, Mr. Chair, goes back to the original principle, and without debating what that case that Ms Notley is citing means or doesn't mean, because I haven't had an opportunity to read it, the fundamental principle of these changes is to make sure that we have a complete and accurate health record for every individual.

The company doctor that Ms Notley mentioned is a good example. If an oil sands company has a company doctor up at a camp who may well already be in the publicly funded system and coming in once a week to provide some privately paid for services, we need to make sure that the record is complete so that if that worker ends up in an emergency department in Edmonton, his record is complete and not separated, segregated by an artificial distinction between publicly funded and private services.

The reality is that now we have a number of private service providers, dentists being one of them – nurse practitioners providing home care could be another one; there are various providers – and the intent of this is to have a single regime that governs all health information and not have some information governed by PIPA, some information governed by FOIP, and some information governed by HIA.

That was the intent of the amendment, and this would reverse that impact.

**Ms Blakeman:** But am I not correct that it is not the intention of the act to provide a source of information to employers to be used about current or potential employees? Yet that's what the amending legislation before us in Bill 52 can in fact do and has. It's providing another window for an employer to look at additional information. It's health information in this case about someone who is an employee. So the reverse of what you argue is also true here.

**Mr. Chamberlain:** I don't believe the amendments do that. This particular amendment simply means any health service, diagnostic, care, treatment-type service, whether it's publicly funded or privately funded. It does not mean that a health service provider can turn over health service information to an employer or any other person. They're bound by all of the disclosure provisions that are contained in the act, barring a consent. This is about health information and making sure that health providers have a common set of rules that apply to them. This does not by definition make an employer a custodian and have that information accessible to the employer.

**Ms Blakeman:** But an employer who's employing a doctor or a health professional now gets information, gets a window, a door into a whole bunch of information they didn't have before, and they're using it.

**Mr. Chamberlain:** If that doctor is dealing with health information under the Health Information Act, they can't disclose that information outside the controlled arena without consent, and the employer is not a custodian.

**Dr. Sherman:** I can appreciate Ms Notley's concerns about the privately funded services, but the reality is that if I were to work in an emergency department and I have somebody injured at work, it's a WCB-related issue. They have X-rays. They have labs done. We as physicians and even the facility actually send WCB the bill. We need that information. We need those labs and X-rays. Although they end up paying for it, we need those to have a complete record, and we need to know if anybody has an anaphylactic reaction in a dentist's office. I can understand your concern, but I don't believe that having a complete record will lead us to delisting or not delisting. Those are separate issues altogether. The reality is that we need all the information on the web for the patient, all the complete and accurate information.

The second part of your concern. A question for Mr. Chamberlain. Even if it's a physician or nurse working for an employer, they have professional codes of conduct for their profession. Can you comment on that?

**Mr. Chamberlain:** They would be bound by the professional codes of conduct of their profession, yes.

**Dr. Sherman:** What's the higher authority, the employer or the professional code of conduct for their profession?

**Mr. Chamberlain:** The professional code of conduct would govern any of their activities that were professional in nature. They could be disciplined even if they were following the instructions of an employer that were contrary to the code of conduct.

**Dr. Sherman:** Thank you.

**Ms Blakeman:** They're also subject to the code of conduct from their employer, and that's where these two things are on a collision course. Where an employer is requiring them to do something and they are also required to do something under health information, those two things could be contradictory. The decision ends up being made by the Privacy Commissioner, but the horse has left the barn at that point. The information has been used, and that's the point that we're making.

**The Chair:** Ms Notley, and then I have a comment.

**Ms Notley:** There are a few comments, but just going back to that one, just to quote from this decision, the commissioner actually quoted from the Alberta Occupational Health Nurses' Association's privacy and confidentiality guidelines. Those are the professional obligations, the professional code that you're referring to. What it says is, "The guide points out the challenge faced by [occupational health and safety] nurses when they must balance 'the interests of both the employees as clients and the employers they work for.'" So the fact of the matter is that people get conflicted. I can tell you that the law on this is not clear. There is no black and white.

The representative from the health ministry talked about the issue of giving information to the electronic health record from the employer. That's not our concern. The WCB doctor putting information into the system so that other doctors can see it is actually not even the concern. The concern is about them getting it back. The Member for Edmonton-Meadowlark raises an interesting point about the relationship with WCB and WCB doctors, and I hadn't actually even gotten into that because that's another very, very complex area. By the way, the HIA committee several years ago recommended against including them.

Now, with respect to the WCB you have doctors like the Member for Edmonton-Meadowlark – we can use names here, can't we?

**The Chair:** Yeah.

**Ms Notley:** We have doctors like Dr. Sherman who work in the emergency department. As a doctor you just treat, and you're not thinking about, you know, who's paying it or whatever, but of course we have the rules that if it's a WCB matter, whether you're a family doctor or an ER doc or an operating doc – it doesn't matter – Alberta Health Services collects that money from WCB because of a previous arrangement. That's fine. But you are not the only doctor and that's not the only setting within which WCB may provide health services.

***3:30***

There is a whole crew of people who work much more closely with WCB, who are much more connected to their adjudicative process, who provide health services. The dividing line between the adjudicative process and obligations and the health service provision within the WCB is not anywhere nearly as clear as the very innocent and very worthwhile example that you provide. It's not the doctor in the ER who provides the information to the pool of information that is the problem; it's the doctor who's wearing two hats who has access to that information. That is a concern.

Now, there was a comment: well, the employer can't get that information without consent. Again, as we've stated before, the law is developing in this area. Right now, as far as I last heard, employers have the right to demand a consent from their employee that is incredibly wide ranging, and should they not give that consent, the employer has the right to fire them. The reality is that when you're talking about employers, this whole notion of consent as a mechanism of protection doesn't work. It doesn't work because that's not what the law says right now.

You then get into a position where you have a health service provider who's wearing two hats, who has a job to do for the employer in terms of getting the person back to work, rehabbing, adjudicating eligibility for sick leave, adjudicating whether or not they should be entitled to a particular accommodation under the human rights code – they're doing all those kinds of things while also providing health services because they often blend those roles for employers, and they have access to this whole pool of information as a result of the changes that are being proposed. I will grant you that that exists right now for health care employees because their employer already has access through a different vehicle. There are problems there, but this is going to increase that problem quite dramatically. It also doesn't deal with the problem with the WCB, that doesn't include, you know, the other WCB doctors who work more closely with it.

There's talk, you know, that the objective of this act is to get the best record possible. That's a laudable objective. That's an important objective. But there comes a point where the need to, quote, unquote, get the best record possible is not an absolute need. It needs to be balanced, and it needs to be balanced against the rights of people to control their information, particularly when it has implications for their very livelihood, which is the example that I'm giving here.

I appreciate that there may occasionally be a time when the best record possible is compromised, not often, and I'm quite happy to talk about the idea of exemptions for the family doc who happens to be paid by WCB or the dentist and the pharmacist and all those people. But expanding it the way you are – just previously the representative from the ministry of health talked about Ms Blakeman's amendment being too broad, that it allows for too many probable problems. Well, that's exactly what this amendment does. It's not being careful enough in terms of how it's letting people into the system. It's too broad, and it can go the wrong way. We haven't spent enough time dealing with it.

**The Chair:** Thank you.

Mr. Brisson, did you have a comment? I missed you there earlier.

**Mr. Brisson:** No. I'll defer, Mr. Chairman.

**The Chair:** Mr. Chamberlain.

**Mr. Chamberlain:** Just an observation. I was going to make a point that Ms Notley made for me, and I agree. The situation that exists now is that you have occupational safety nurses, you have company doctors. You have the situation now. Part of the intent of these is to provide a common regime for all health information so that we've not got some health information governed by PIPA and some health information governed by HIA, so that it's all governed by a piece of legislation that's designed for health information to help address exactly some of those concerns.

There was one other observation there. We recognize that there may be situations that come up where there are issues, so the amendment does allow for exclusions to the definition of health service in the regulations. We haven't identified any that we think need to be done, but we put in that vehicle to give us the flexibility in case something did arise.

**Ms Notley:** Yeah. I would just say that it does apply to the roughly hundred thousand health care employees. This would expand it to five, six, seven times that number of people.

**The Chair:** Thank you.

Dr. Sherman, on this particular point.

**Dr. Sherman:** Just commenting on that. Any good physician and any good health care provider, typically when they provide service, regardless of where they provide it, they take a complete history, generally a physical exam, a thorough medication history, past medical history. Those records currently already exist. In fact, I believe it would help those who are injured because if those physicians have access to X-rays, labs, care gotten elsewhere, I believe it would actually help those patients, help their records, and help their WCB issues to be dealt with.

**Ms Blakeman:** You haven't done enough constituency work.

**Dr. Sherman:** I may be a little naive, but I would counter that the situation of their having the information already currently exists in paper record.

**Ms Notley:** Your current employer being able to take a look back 20 years: do you think that would help you?

**Dr. Sherman:** I believe they've made it abundantly clear that for the employer, their mandate isn't to look at information without your consent.

**The Chair:** Okay. I think we'll just sort of bring this back. I don't have any additional speakers on the list unless I've missed anyone.

I just wanted to make a comment, Ms Notley. You raised some interesting points here. I reviewed the decision of the Information and Privacy Commissioner to which you refer. I did not interpret it even closely the same way. My interpretation was that the issue arose from an inappropriate use of health information by someone who was authorized to see that by virtue of their employer being a custodian. My read of it was that the individual either knew or ought to have known that the use was inappropriate, that it was distinct from the purpose of providing care and treatment. My interpretation of that decision was that the law worked because the issue was discovered. The commissioner's decision upheld the distinction that should have been recognized by the person. I'm not a lawyer, unlike – how many am I counting today? There are at least four in the room here. You know, I'm not certain I would accept the same rationale but certainly appreciate your bringing it forward.

Do you wish to make some closing comments before we ask you to move this amendment?

**Ms Notley:** Sure. I will just very briefly. I appreciate that in that particular decision the actual outcome was a positive one, but as anyone who, you know, has studied law will tell you, it's often the way in which the person making the decision gets to the outcome which is of value. In this particular case the way in which the commissioner came to the conclusion highlighted for me a real lack of clarity and that if the situation had just been slightly less clear than in the example – in that case it was someone who was applying for a job, and they were checking whether she'd been immunized, right? But in the course of his analysis the commissioner talks about things that lead me to conclude that if you were talking about an accommodation or a return to work or something like that, the line simply wouldn't be that black and white. That was my concern, based on the reasoning that got him to what you correctly identify as having been the correct outcome in that particular case.

Other than that, as I say, I think I've made all my points. I don't see why we need to expand the scope and allow for a whole bunch more people between now and the time this gets passed to be delisted yet ensure that they have access. As I've stated, I think this has very, very serious implications for employees across the province. Again, I don't know what the actual workforce is. I know that there are about a hundred thousand health care employees that currently are covered by this. I am afraid that, you know, if you expand that to the whole workforce, we're going to be creating many, many, many more problems.

I urge you to support – so I'll move my amendment.

**The Chair:** Thank you. So moved by Ms Notley. Any further discussion? Okay. Those in favour? Opposed? That is defeated. Thank you.

Ms Notley, I believe you have three further amendments.

**Ms Notley:** Indeed.

**The Chair:** What I'd like to suggest is that we'll do the next one, and then if we could just take a short break, we'll come back and do the remaining two.

**Ms Notley:** Sure.

**The Chair:** Go ahead.

***3:40***

**Ms Notley:** As I said, the next three amendments all deal with the issue of the health information repository, and I appreciate that Ms Blakeman was also trying to deal with that with the amendment that she had passed. My concern is that, ultimately, we don't know what these health information repositories are. We're giving them the ability to receive personally identifying medical information. We'll give them authority, and then we'll make the rules about how they conduct themselves later. That's sort of the overarching concern I have about this provision, that we give them the ability to get my health information and your health information, identified by name, and then after the fact we will tell them how to operate. I think that that's a very, very irresponsible way to approach this issue. So I have the three amendments.

Now, the first amendment is probably the most far reaching, and it actually kind of has some implications for the amendment that we did just pass, that Ms Blakeman had put forward, in that what I'm suggesting is that rather than trying to cherry-pick little pieces of the act here and there which might apply to health information repositories without us actually knowing what it is we're creating or what it will look like or how it will operate, instead the idea is simply to have a health information repository characterized as a custodian and then be subject to all the rules and obligations of a custodian, including the issue raised by Dr. Sherman: somebody actually having the ability to directly review information held by the health information repository that is personally identifying whereas that

ability, as we're going forward right now, doesn't exist. So we're giving a body the ability to receive personally identifying health information, and then we are significantly limiting that body's obligations with respect to how it treats that information. My first amendment was an attempt to deal with that just by globally making the health information repository a custodian.

Now, I appreciate that that has a number of ramifications and that it's a very complicated and consequential type of amendment. It does sort of tie into my overall concern that again we appear to be moving very, very quickly on this without giving this anywhere near enough consideration. Again, the creation of the health information repository was one of those items that the Health Information Act Review Committee from several years ago recommended we move forward on, but they recommended we move forward on it by having a committee review those issues in more detail and then move forward. We don't have a committee. Instead, we just have this authority to create it and to collect information and, as I say, work out the rules later.

The implications that I identified – and I certainly hope that they're exhaustive, but I'll be the first to be told that they're not because we did this very quickly – were simply that we would make the health information repository a custodian. That's amendment A(a). Amendment A(b) is a consequential amendment to the Health Information Act, that currently says that custodians who have health information but not for the purpose of providing health services are not covered by the act. Because health service does not include the functions of the health information repository, it exempts that. So the health information repository would be covered by the act even though it doesn't directly provide health services, if that makes sense.

Now, I'm just sort of going through this really quickly. Basically, I believe the consequential amendments that I – there are actually additional consequential amendments in here, I think. Am I looking at the right one? Yes, it is.

**The Chair:** It's marked 2.

**Ms Notley:** Yeah.

The next part of it is where you're adding, basically, the work of the health information repository to the different descriptions of allowable purposes in various different parts of the act. That's effectively what the remainder of them are.

I'm looking down at Parliamentary Counsel and Ms LeBlanc. If I'm missing one or two consequential amendments, please let me know.

The only other consequential amendment that's part of this is the notion that right now if the person to whom the information relates gives consent, the custodian can release it. There's been a lot of talk here about how custodians are typically health service providers and that they would only do it to the amount necessary as it relates to the provision of a health service. Because the health information repository is a bit of a different beast and it's not providing a health service and we're not exactly sure what it's doing, it would remove the ability for information to be released by way of consent. That's basically it. It's, I think, an amendment that had to be made.

Again, this is very hard to go through piece by piece by piece because there's so much to this, but the point of amendment 2 is simply to have a health information repository treated as a custodian so that people have the ability to check it and to be advised of when information is disclosed and all the other things under the act and to consent to its collection because, of course, they do actually collect as they receive, and that could often be done as part of the original collection. Nonetheless, it's to give the full scope of authority and obligations to the health information repository that exist for other custodians.

**The Chair:** Okay. Great. I guess I'll look to the department officials first. Any comment?

**Mr. Chamberlain:** Ms Notley is struggling the same way we are. These are complicated amendments. The concept of making a health information repository a custodian does cause some concern simply because the intent of a health information repository is to do a fairly discrete function. It's to collect data from various databases so that it can be made available to researchers: anonymized, data matched to the point possible so that researchers don't have to go to various sources to get information, which maximizes the risk that they get more information than they need, that there are problems with the data matching. So it's trying to provide a simplified service.

Ms Notley indicated that information would go to the repositories and that then we'd set up the rules. That's not quite the way it's set up. The way it's set up is that the repository is set up by the regs, that would actually set out the rules, the duties, the powers, so it would all be done at the same time. You would actually create the health information repository, determine what it did.

The problem with the custodians provision is that the main purpose, function of the custodians under the act is that it's custodians that are able to share information in the controlled arena, with the concept being that with the exception of people like the ministry, who also provide health system management, the custodians are providing care, diagnostic, treatment-type information, and most of the rules relate to that type of provision. Making a health information repository a custodian would bring in all of those collection, use, disclosure rules, all of those provisions that really don't need to or may not have any real application to a health information repository that's providing a very discrete function. So it's quite a broad attempt to create some rules which we'd envisioned would just be set up under regulation, possibly on a case-by-case basis, depending on the exact scope of what a health information repository was supposed to be doing.

**The Chair:** Okay. Other questions? Comments? Ms Notley, I have a couple. I guess, first of all, that maybe I don't need an answer to this question at this point, but should this amendment be passed – I'm looking to Parliamentary Counsel here – there would be some implications for the amendment that we passed earlier, which we'd have to revisit. Is that correct, Ms Dean?

**Ms Dean:** You are correct.

**The Chair:** I guess my question around this would be – I'm not sure I understand the argument that by making the repository a custodian, we add to the protections around the collection and disclosure of information at its source, in fact the health provider that originally collects the information. My understanding of the repositories is, well, two things. One is that there won't be any implications for the research ethics committees that currently exist in Alberta that provide approval for research projects in the first place, so that level of scrutiny isn't affected in any way by what's proposed in the bill.

***3:50***

Secondly, my understanding is that the information that the repositories would be dealing with would be almost exclusively aggregate, nonidentifying information. Perhaps I'm wrong in that, but I'm just wondering how you would envision the functions of a custodian being enacted if the subject information is, in fact, aggregate and nonidentifying.

**Ms Notley:** Well, you raise good questions, and I just do want to reinforce again that I don't have all the answers here because I'm trying to deal with a very complex matter in a very short time.

Just one thing, though. I mean, right now what is in Bill 52, which wasn't impacted by Ms Blakeman's amendment, is 72.2: "A custodian may, in accordance with the regulations, disclose individually identifying health information to a health information repository." So the fact of the matter is that the health information repositories are receiving not just the aggregate; they are receiving the personal, individually identifiable information. Were it not for 72.2, I'd be a great deal less concerned, but what's in fact happening is that they have the capacity to receive that information. That was my first concern.

There are different examples. If you went through the act, you'd see where they're different. Ms Blakeman's amendment provides one example of a difference. Because the health information repository is not now a custodian, we had to make the specific amendments that we did to allow for someone to try to correct their information and to have a breach of that enforced, even in this case, whereas with other custodians you have a right to see what that custodian holds, and then you can check whether it's correct or not correct.

As a result of the amendment made by Ms Blakeman, all that happens is that the person has to take at their word a letter saying, "The information we hold about you, that includes your personally identifiable health information," which is being, you know, given out all over the place without any notification to you or whatever because, again, it's not subject to those rules, "has been corrected." You won't be able to check and see, for example, because the health information repository is not a custodian under the act.

Another example is that Ms Blakeman's amendment talked about sections 74 to 82, or whatever, that are in the act, about the authority of the commissioner. The majority of those would have no actual impact on the health information repository because they all link back to other obligations which appear in the act, to custodians and affiliates but not to the health information repository. We're basically creating a body. We are doing one very, very major thing, which is giving it the ability to receive personally identifying information, and then we're leaving the rest to what may or may not happen in terms of the development of the health information repository and the regulations around it, which is very different from everything else that's in the act.

That's why I say that it has very major consequences. This was a very crude attempt to try and deal with it quickly. That is what my amendment is in some ways. It's an attempt to make the HIR a custodian. It may not be the best attempt. I'd be perfectly happy to be told that there are other ways to get at those issues if there was more time. That's my problem.

**The Chair:** Yeah. So if I could respond. I'm not sure I would necessarily share in some of the characterizations you made about the health data repository as a potential entity. I think what we have to recognize here is that these don't exist yet; they are being developed. My understanding of the purpose of the bill is to provide a legislative framework to support the development of something which is going to be subject to additional rules and revisions to rules as it becomes developed and used more widely in the future.

You know, appreciating what you're saying and the obvious thought that has gone into this, I'm not sure that we can fairly and accurately contemplate all of the potential scenarios that may give rise to concern. But we do have a responsibility, in my humble opinion, to provide the legislative framework to allow it to be developed responsibly and the regulatory authority to allow appropriate changes to be made as this evolves.

I guess the other point I would make is that it was made very clear in some of the earlier presentations that the electronic health record is also in a stage of evolution, and it has come a long way. I think it was emphasized to us in the department presentation that we will have as part of this a patient portal, which is a web-based interface through which any Albertan will be able to view the health information that is on file under their name and also to see who has accessed that information over any point in time. So, in my mind, the ultimate answer to this is the self-auditing capability that is going to be made available to us through the tool.

Now, admittedly, it's difficult for all of us to envision that because we're not at that point yet, but I think it would be equally irresponsible to let things proceed without this sort of discussion and review and at least, to the extent we can, providing the legislative parameters that support addressing the issues that have been identified around privacy and confidentiality. That's just my personal view in response.

Any other speakers on this? Okay.

Have you moved this one, Ms Notley?

**Ms Notley:** I don't think I have, but I can speak and then move it, and then we can just go on. That would be fine.

**The Chair:** Fine. Go ahead.

**Ms Notley:** I guess my concern is that we're not setting up the rules, we're not setting up privacy, we're not setting up any mechanism at all through which there is any kind of self-auditing capacity for Albertans vis-à-vis the health information repository. We are setting up one thing and one thing only, and that is the ability of the health information repository to get access to a whole bunch of information.

After that, we've done nothing. We have not set up the rules. We have not set up any requirement that people be able to engage in the self-auditing that you're talking about or the portal or any of those kinds of things. We have no idea what access people will have, what protection they will have, what ability the commissioner has to look over it except with respect to the small area that was addressed by Ms Blakeman. Instead, we just have this creation of a body that has an incredible authority to reach in and take information relating to people, with none of the protections that exist in other parts of the act in relation to other bodies.

I will just say again that this is a complete leap of faith, where we are saying to people: we're going to create a place for your private, personally identifiable health information to live, and we will come up with the rules around how that's managed by regulation at some point in the future. I'd just say to all members of this committee that I just don't think that is a wise way to proceed.

**The Chair:** Thank you.

**Ms Notley:** So I will move my amendments. Yes.

**The Chair:** Okay. Moved by Ms Notley. Further discussion? Those in favour? Those opposed? Okay. The motion is defeated.

Thank you, Ms Notley.

What I'd like to do is take no longer than a five-minute break and come back and deal with the next two amendments. We'll see you back at 4:05.

[The committee adjourned from 3:59 p.m. to 4:06 p.m.]

**The Chair:** All right. Ladies and gentlemen, if we could reconvene. Thank you. We're at 6 minutes after 4.

Ms Notley, are you ready to proceed?

**Ms Notley:** Yeah.

**The Chair:** We have agreed to end the meeting at 4:30. If it's necessary that we extend longer, I'll have to ask for the agreement of the committee. If it's possible, perhaps, to at least get these next two on the table, we'll have some time for discussion.

Please go ahead.

**Ms Notley:** Sure. Great. Number 3 again relates to the health information repository. It basically just talks about setting up a governance body that oversees how the health information repository discloses information vis-à-vis research purposes. Again, it's just another attempt to get more clarity with respect to how the health information repository would function in relation to the disclosure of information for research purposes. It's taken from language that's currently used in Manitoba, I believe, not in legislation, actually. This language I think is in the Manitoba regulation.

It just talks about the composition of a committee that would oversee the operation of the health information repository, and it talks about that a quarter of the people are public representatives who are neither health service providers, people who conduct research, or employees of the government. Then it just sets out a bunch of rules, the process for requesting access to information held by the repository and the way in which the governing body would consider those requests and how they review them and what kind of criteria they look at.

For instance, it says that in determining whether to grant approval for the researcher to access the information, the governance committee would consider whether it's of sufficient importance to outweigh the intrusion into privacy – so, again, that balancing issue – if the research cannot be reasonably accomplished in a different way, if it's unreasonable or impractical for the person doing the research to try and collect it from the original source, if the research project itself has reasonable safeguards to protect confidentiality and security of the health information, and that there are procedures in place to destroy copies of the information. That's the kind of thing. Again, it's modelled on a similar kind of committee that exists in Manitoba, that oversees a different body of health information. So that's what I'm proposing here, again, to deal with the issue that I think I've already outlined several times now with respect to my concerns about the health information repository.

Just to give you some context – I know we're going to go to the other one – the other amendment deals just generally with the duties of the health information repository. Again, it's the same thing. I might even be prepared to consider the idea of making recommendations for regulations that would look something like this amendment 3 if people think that's getting too verbose for legislation, particularly if it was associated with the amendment that's number 4. So I've got some flexibility there. I just wanted to get on the table the idea of putting out some rules that we as legislators would have some idea would be in place with the disclosure of this information.

**The Chair:** All right. Thank you.

**Mr. Chamberlain:** The concept of having sort of checks on research use of information is certainly acceptable. The concern of the department would be that we already have research ethics board processes in the legislation, and having a duplicate of a potentially overlapping process would cause concerns. Essentially, when I read through this stuff – and I know it came in part from Manitoba legislation – it does the same things that our research ethics board provisions in division 3, from section 48 on, of the act already do. It concerns me that I'm setting up a different committee to do the same thing that we already have research ethics boards doing, doing the same tests. It doesn't make sense to duplicate that process.

The legislation already applies to the research ethics boards. To the extent that some of the back end of the research ethics board provisions apply to custodians, because there are some provisions that do, that's something that we would have contemplated picking up by regulation. As it is, without any regulations the front half of the research ethics board provisions apply, and no person can do research without first going through the research ethics board process before they go to anybody looking for information. So the concern would be that this provision is there already in the legislation. We don't think we need another committee to do essentially the same role, particularly if you consider that a researcher may be looking to a health information repository for a certain set of information and already have or be going somewhere else to get different additional data to complete that research. So you may end up with duplicative processes to do one set of research.

**The Chair:** Thank you.

Other members with questions or comments?

**Ms Blakeman:** Well, I can say from my work that the Manitoba legislation and the regulations that go along with it seem to be the best practices that we can find, particularly around health information repositories. I would certainly like to see what's contained in amendment 3 go forward for consideration somehow in what we're doing. It is the best practice right now, and it's certainly the one that is brought up by people who are expressing some of the concerns that we're trying to address here. If there's a way for us to include this, that helps us move along and alleviate some of the concerns that are being expressed in the community, because this is the one that everybody brings up as the best practice.

**Ms Notley:** If I can also jump in. I'm just looking at the section in the act that deals with the research ethics board, and my reading of it is that it does, unfortunately, still only apply to custodians. So had my last amendment passed, then this one would be absolutely moot because the section dealing with the research ethics board would apply to the health information repository. However, as was already noted, a good portion of it does not apply to the health information repository because it's written to simply apply to the custodian.

**The Chair:** Mr. Chamberlain, on this point.

**Mr. Chamberlain:** Yeah. Now, let me clarify, because I was sharing Ms Notley's confusion. My associates just handed me the mocked-up version of the act with the other changes. Bill 52 does amend the research ethics board provisions to incorporate the health information repositories. In fact, those amendments are already in there to make sure that the research ethics board provisions would apply to research where the information is being obtained from a health information repository. So my original concern that this is duplicating the provision that's in there is, quite frankly, reinforced.

**The Chair:** Okay. Well, if I could ask just for the record: could you give us the reference, Mr. Chamberlain, to that point? I'm sorry; I don't have it in front of me right here.

**Mr. Chamberlain:** Yeah. In Bill 52 it's section 14 and on. It starts on page 12 of my version.

**The Chair:** Okay. I see it on page 14 as well. Thank you.

Any other further comment or discussion on this point?

Do you have it, Ms Notley, as well?

*4:15*

**Ms Notley:** I do. I think the Manitoba language is better, but I hadn't been aware of this interaction. I hadn't looked at that. There's no question that a portion of my concern is addressed, for sure, by that.

**The Chair:** Do you still wish to move this amendment?

**Ms Notley:** No. I think I will withdraw that one, having looked at that and gotten that information, and proceed to the last one. I don't think I actually moved it, so I don't need to withdraw it.

**The Chair:** No, but I just wanted to make sure I had your intention clear.

Number 4, then, Ms Notley.

**Ms Notley:** Okay. This one I know isn't there. This is, again, taken I think from draft legislation that's not actually in place yet in Manitoba. What it is is basically their attempt to set out powers and duties of a repository. Currently what we have in Bill 52 is simply the notion that we would allow for all powers and duties to be set out by the regulations. What I am proposing is not by any means an exhaustive set of powers and duties but some oversight with respect to what this health information repository would ultimately look like.

It sets out information with respect to what the purposes of the health information repository are: analyzing the health status of the population, identifying and describing patterns of illness, describing and analyzing how health services are used, analyzing human resources, measuring health system performance, health system planning. Then it sets out basic rules suggesting that the health information repository must use the information for the purpose that it was disclosed for, that it must have policies and procedures in place to protect privacy, and also, as soon as reasonably practicable, the identifying information of individuals needs to be removed as soon as it has been used so that, again, there is, you know, a limitation on the potential for breach with that information being there.

The other piece that is in this arises in part from my conversations with the commissioner – and I believe you and I discussed this as well, Mr. Chair – the notion that we add in the obligation to have the government consult with the commissioner in the preparation of the regulations, which are set out under 72.3.

There are two parts to this amendment, then: one, setting out a broad set of purpose and duties, and then two, asking that the commissioner be consulted in further development of regulations.

**The Chair:** Mr. Chamberlain, did you want to comment? Then I have a question.

**Mr. Chamberlain:** Let me just comment. On a quick read the concern would be that this is the type of information we would consider putting in a regulation. The concern we have with doing it now is that it may be too broad, that it may be too narrow. The idea of setting up the health information repository is to make it a discrete service for certain purposes, that they may be this broad, that they may be narrower, so these rules may or may not be applicable in any given case. The intent was, as these things develop, to build these types of provisions as appropriate into regulations.

The last piece, dealing with the regulations, certainly is important. We want to make sure that regulations are developed properly and that Mr. Work and his team have the opportunity to review and comment and provide their oversight role.

The final piece, (d) on page 4 in the copy that I've got, we certainly would have no concerns with, but with the other provisions we'd be concerned that they may be too broad or they may be too limiting.

**Mr. Vandermeer:** Can I make a suggestion, then, that you present these as two separate amendments? I can certainly be in favour of (d).

**Ms Notley:** I'm prepared to do that.

**The Chair:** Thanks, Ms Notley. Just for the record, then, nothing has been moved here at this point. Ms Notley is amending what has been tabled here as 4, that it would end after part (c), up to and through (c). Then she would be proposing next 5, which would contain (d). Can we work with the wording if we sever off (d)? Ms Dean is saying yes. We can work with the wording that's there.

Thank you.

**Ms Dean:** Mr. Chair, the only minor correction would be the numbering of that provision given the passage of Ms Blakeman's amendment earlier, so the section reference would be 72.5 instead of 72.4.

**The Chair:** Okay. Can I ask you just to work on a revised wording for that last piece, and we'll come back to it in a minute? We'll just dispense with our discussion on the first piece and then come back to that. I'll just ask you to read it into the record so that I've done my job correctly here.

Ms Notley, what I wanted to ask you about was that in 3, in your previous amendment, you indicated that those were, in fact, excerpts from regulation, not statute, in the province of Manitoba. Do you have any knowledge as to when those regulations were developed? Were they at the time the statute was proposed? Was it subsequent, as their system developed? I think a number of us are aware of their system.

**Ms Notley:** I'm not. I'm assuming it was probably subsequent. That was the previous, not what we're discussing now but the previous ones. I imagine they were developed subsequently. That's usually how it works.

**The Chair:** Just so I understand, 4 as you've proposed it here, subject to the change we've just made, is from a statute or a regulation that is not yet enacted?

**Ms Notley:** A statute which is not yet enacted.

**The Chair:** Not yet enacted. Okay.

**Ms Notley:** Can I move it, and we can discuss the first one?

**The Chair:** Certainly.

**Ms Notley:** Okay. I'll move, then, as my fourth amendment section 22 being amended by (a), (b), and (c). I think that in many ways I've already outlined the rationale for that. Again, you know, a representative from the ministry of health talked about how this is too broad and that it may be limiting or it may be too expansive. We

really don't know. But we have managed to put into legislation a piece that gives this body – we don't know what it looks like – the ability to collect personally identifying health information of Albertans. I think that when we're going with something like that, which is incredibly broad, which is an intrusion on people's rights, we're simply going to have to be prepared to think through the balance a little bit.

That's what I'm trying to get at through this amendment, to simply clarify a little bit what the purpose is and also to set out some minimal rights of people with respect to how that information would be used and disclosed and setting out certain obligations with respect to that. Again, it's an attempt to balance out what is otherwise a very, very invasive and far-reaching legislative authority that we're giving to ourselves.

**The Chair:** Okay. Thank you.

On the motion, then, by Ms Notley, any other discussion? Questions?

**Ms Blakeman:** On 4?

**The Chair:** Yeah, on 4. Ms Blakeman? No?

Okay. I'll call the question, then. Those in favour of 4 as revised? Those opposed? Okay. That revised 4 is defeated.

We'll go on now to what I'm going to refer to as 5. I'll ask Ms Dean, if you're agreeable, Ms Notley, just to read the proposed revised wording into the record. Go ahead.

***4:25***

**Ms Dean:** Thank you, Mr. Chair. The amendment would read that section 22 is amended by adding the following after the proposed section 72.4. Again, just to clarify, this reference, 72.4, is to the amendment that has already been endorsed by the committee. This would be numbered 72.5: "The Minister must consult with the Commissioner in the preparation of the regulations under this Part."

**The Chair:** Okay. Thank you.

Ms Notley, if that's acceptable, would you like to move that?

**Ms Notley:** So moved.

**The Chair:** Okay. Discussion? Questions? Those in favour? Was that everyone present in the room in favour? Yes. That is carried. Thank you.

**Ms Blakeman:** I did have one other amendment I was trying to do but was advised by Parliamentary Counsel that it wasn't possible because I was trying to introduce a new concept, and that's the concept of a lockbox. I feel pretty strongly – and it was actually raised initially by the department staff – that the masking is not as secure as people might be led to believe. In fact, we had a demonstration of the accessibility of information even when it was supposed to have been masked. So I had wanted to introduce a lockbox provision, and that would be a whole new concept, and I can't do it in a parliamentary way at this time.

What I'll do is prepare a minority report that will recommend that we consider a lockbox provision and put that forward as part of the report. That would be under Standing Order 68(2): "The report of a committee is the report as determined by the committee as a whole or the majority of it but shall include any minority reports concerning the report or parts of it."

**The Chair:** Okay. Noted. Thank you.

Ms Notley.

**Ms Notley:** Yes. I'm wondering if we would have just a few minutes to go back to the draft amendments – remember that I raised that at the beginning of the meeting – if we might be able to do that now.

**The Chair:** We do. In fact, because there are a couple of other items of business at the end of the meeting as well, I'm just going to ask: would the committee be prepared to continue until 4:45? Is that sufficient? Is that agreed?

**Hon. Members:** Agreed.

**The Chair:** Okay. Thanks.

Ms Notley, go ahead.

**Ms Notley:** Thank you very much. At our last meeting we had the draft amendments presented to us, and along with that we also had shared the letter that had been received by the chair from the Alberta Medical Association, where they were endorsing what the committee had previously in principle agreed to with respect to some amendments to Bill 52 and the ones that were passed ultimately in legislative form in the last meeting. On page 2 of the letter, under the topic of the electronic health record and use versus disclosure, they identify their understanding of the changes that are being considered by our committee as including:

> Add into the legislation provisions for:
>
> (i) Provider audit logs
>
> (ii) Masking.

I finally did have a chance very briefly to look at the draft legislation that came back to this committee last meeting, and I'm looking in particular at page 4 of the draft. It's the amendment to 56.31, duty to consider expressed wishes of individual who is the subject of prescribed health information, which I believe was the amendment that came forward to try and deal with the auditing and the masking function. I just noted the wording there, finally just getting a chance to take a look at it.

> In deciding how much prescribed health information to make accessible via the Alberta [electronic health record], a regulated health professional or an authorized custodian must consider as an important factor any expressed wishes of the individual who is the subject of the prescribed health information relating to access to that information, together with any other factors the regulated health professional or authorized custodian considers important.

I'm concerned with the phrase . . .

**Ms Blakeman:** I'm sorry. Can you just give us the numbers and the page again so that we can all be with you?

**Ms Notley:** I'm on page 4 of the draft.

**Ms Blakeman:** And the number would be?

**Ms Notley:** Sorry; 56.31.

**Ms Blakeman:** Thank you.

**The Chair:** Part (5)(c), I believe.

**Ms Notley:** Is it part (5)(c)? Yes. And proposing to create that clause on page 4.

I'm just very concerned about this wording, you know, that "an authorized custodian must consider as an important factor [the] expressed wishes" along with other factors that might seem important. It seems to me that that is a different standard than what used to be in place, so by changing the characterization, are we or are we

not – I know that this arose because we changed the operation from being a disclosure to a use, and in so doing, we changed the ability to consent or not consent to their information being disclosed. This was the response, and I'm just a little bit concerned that this doesn't actually provide for certainly what the AMA thought we were providing for. It allows for maybe that information to be withheld, but it doesn't say that it will definitely be withheld.

**The Chair:** Just before we go to you, Ms Blakeman, do you want to provide some explanation, Mr. Chamberlain?

**Mr. Chamberlain:** Yes. Let me comment because I think we're mixing up a couple of concepts, and I want to make sure I understand. Ms Notley refers to the audit and logging provisions. Those are actually in 56.41. They're very close to what's currently in the act for disclosures, and they apply them to EHR uses.

The expressed wishes provision is currently in 58(2) of the act. It's not affected by these amendments, but it applies to disclosure. The language in that is very, very similar with necessary changes to what you're referring to in 56.31. That's currently the section under which the masking is done.

What we tried to do when Ms Dean and I were working on this was to utilize the same concept that's currently in the act and move it forward. So 58(2) says:

> In deciding how much health information to disclose, a custodian must consider as an important factor any expressed wishes of the individual who is the subject of the information relating to disclosure of the information, together with any other factors the custodian considers relevant.

We tried to mirror that as much as possible to give effect to that same concept.

**Ms Notley:** Okay.

**The Chair:** Thank you, Mr. Chamberlain.

**Ms Blakeman:** So I guess my question to the legal beagles here is: how does that get considered, and where would it fall in a priorized list of important factors when all things get considered?

**Mr. Chamberlain:** Again, we wanted to utilize the same language to build on the body of decisions and the history that we've had in working on it. In fact, I believe the commissioner, in my understanding, Mr. Chair, raised an issue as to whether or not this dealt with masking but indicated that they have a decision on the current expressed wishes section that came to the conclusion that the way to do it was masking, and they'd likely give this section the same interpretation. They obviously can't fetter themselves in advance. That was our concern as well.

Quite frankly, the current section and this wording gets us to masking today. If technology improves, if we get better models down the road, we want to be able to utilize that going forward. Masking is the best tool we've got today on most but not all of the databases. To the extent that we get better tools going forward, we want to be able to utilize that; hence using the same language that's in the act now.

**Ms Blakeman:** Well, to clarify, then, what would trump expressed wishes as an important factor?

**Mr. Chamberlain:** Public safety, completeness, accuracy. I don't know that there's a trumping. It's a factor that the custodian would have to consider as to whether or not to put a mask in place, and there are going to be various factors in play. Physicians do it now. I won't pretend to make the kind of clinical decisions and weigh the various factors, but it's something that an individual custodian has to consider as an important factor.

***4:35***

**Ms Blakeman:** So when we had the demonstration of Netcare the other day in which there was a draw-down menu and probably five or six choices of why they could override the masking, would those be the factors? I mean, in the legal world you guys always have a precedent you work from. That's what I'm trying to figure out right now: what's more important than an expressed wish? You're telling me: public safety.

**Mr. Chamberlain:** I'm reluctant to speculate because I don't want to deal with hypothetical situations, but certainly a public safety issue could be one of them.

**Ms Blakeman:** But you have what's in the act now, so what's speculation about that? You have section 58(2), which has been in effect for some time, so you must have something you're going off of now. What is it?

**Mr. Brisson:** A provider in a certain case would take the request from the individual to mask their information. Perhaps if it was a communicable disease occurrence and they could not mask the information because of protecting the public or the general patient safety of either that individual or others, they may consider the express wish but then deny it and not mask the information. It would be an example from a provider in a previous discussion. This is really provider focused, where they'll make an individual decision in dealing with that patient and weighing it against the patient's best interests and other interests of the public would be an example.

**Ms Blakeman:** So that is subject to every individual health provider as to how they would rank the expressed wishes of someone as to whether they would follow through on that. Am I hearing that correctly?

**Mr. Brisson:** That's correct, the way I'm reading it, yeah.

**Ms Blakeman:** Okay. That's why we need a lockbox.

**The Chair:** Okay. In fairness – and I appreciate your raising it – I think we're perhaps starting to tread back on previous ground that we discussed in committee. The only point I'd just like to add, since Ms Notley raised it, is that you'll recall that in the amendments that we adopted at the last meeting, we proposed an amendment whereby the colleges of the various health disciplines would have the responsibility for determining health information that needs to be made available by the EHR. The intent of that and, certainly, my hope is that our colleges will in turn develop standards of practice and codes of conduct that reflect appropriate judgments on the very kind of issue that you're raising now. That was indeed some of the thought that went into proposing that amendment that particular way. I just sort of offer that as an additional thought.

We're just about out of time here. First of all, I'd just like to thank all members for their discussion and for the amendments that were brought forward by the committee.

There are a couple of remaining items of business. One is just with respect to the preparation of the report. I'm going to ask for a motion here that

> the committee authorize the chair and deputy chair to finalize the committee's report based on the proposed amendments that were adopted by the committee.

I'd ask for someone to move that.

**Mr. Dallas:** I would so move, Mr. Chair.

**The Chair:** Okay. That's Mr. Dallas.
Any discussion? Ms Blakeman.

**Ms Blakeman:** Well, I'm just wondering how a minority report – I suppose there could be more than one – fits into that amendment. I'm not sure of my timing here, and capacity is an issue.

**The Chair:** Ms Dean can correct me, but the standing orders provide that any minority reports that are submitted will be appended to the committee report. Your minority report, should you choose to submit it, is not subject to finalization or review by anyone.

**Ms Blakeman:** No, no. I understand that. It's timing that is my issue. So what is the anticipated timing of this? Clearly, you're having the committee empower you and the deputy chair to complete this because you don't anticipate calling another meeting of this committee. Correct?

**The Chair:** That's correct. We established that at the last meeting.

**Ms Blakeman:** Okay. So help me with the timing. When do I have to have this minority report to you in order for it to be included in the report that goes forward?

**The Chair:** Ms Dean, do you have any thoughts on that?

**Ms Dean:** Mr. Chair, it's dependent upon when you're planning on tabling the report. From an administrative standpoint we would need at least one business day to get the minority report in a format that it can be appended to the committee's report. I guess what I'm saying is that if the plan is to table the report on Monday, we'd be looking to get that minority report tomorrow, or if Tuesday is a possibility, then we'd be hoping for the minority report by the end of the week.

**The Chair:** Well, you know, I'll certainly work with you, Ms Blakeman, to accommodate your time. I have no idea what you envision in terms of your report, the length and so on, but I think that what we're hearing is to have that provided as soon as possible. You can provide it through the clerk. My intention would be to table the committee's report on either Monday or Tuesday of next week. If you can provide that to us tomorrow, certainly by Friday, that would be much appreciated. And, as always, we'll work with Ms Notley.

The motion is to

> authorize the chair and deputy chair to finalize the committee's report.

Discussion? Those in favour? Opposed? That's carried. Thank you.

There are a couple of items remaining here. I'm going to ask Erin to help me out. Item 6 is for Melanie.

I'll just come back to you, Ms Blakeman, if I can.

Melanie Friesacher, our communications consultant, just wanted to talk quickly about the release of the report and any other considerations that we may have regarding people that have presented to us.

**Ms Friesacher:** Essentially, when you do table the report, then I'd like to ask the committee if we can issue a news release, just, you know, letting the media know that it has been tabled.

**The Chair:** Okay. Any concerns around that? This is consistent with our practice on Bill 24. I think it was about two or three sentences just notifying.

**Ms Friesacher:** Just notifying that, yeah, it has been tabled, and the report's submissions are online for viewing.

**Ms Blakeman:** Are they?

**Ms Friesacher:** Yes. They are posted.

**Ms Blakeman:** Good. Thank you.

**The Chair:** Okay. Do we need a motion for this? Can we just indicate: are we agreed?

**Hon. Members:** Agreed.

**The Chair:** Thank you.

Melanie, you'd also raised a question about notifying by e-mail the people and organizations who had made a written submission or an oral presentation that the report will be available on the committee's website after the report is tabled. Again, I believe we did this last time.

**Ms Friesacher:** Yes, we did.

**The Chair:** Can I take it that we're agreed on that as well?

**Hon. Members:** Agreed.

**The Chair:** Okay. The next item I just wanted to quickly mention. We won't have time to deal with it today. I did ask the clerk to update a table that we've been keeping that's documenting requests to present to the committee through public meetings as defined in the standing order. You'll recall that we held two meetings for this purpose last fall. I think we had six or seven groups present to the committee on various topics.

The chart has been updated, and it's on the internal website for the committee. What I would appreciate – and I'll follow up by e-mail – is an indication from committee members as to which groups you would like to present to the committee. I'm assuming that we would like to do this. Certainly, as chair I would like to encourage us to hold public meetings. They're provided for in the standing orders. It's an opportunity for individuals and organizations to present to the committee on any topic. I think we worked out a good protocol the last time, where I believe we used a 30-minute time frame: 15 minutes for a presentation and 15 minutes for a question-and-answer with the committee. Certainly, I'll consult with all of you as to when such meetings might be held because I recognize, you know, the workload that people are facing between now and the end of session.

Perhaps I'll just treat this as an information item unless anyone wants to express their disagreement that we review this chart and work toward holding one or two public meetings.

I don't believe you were with us for this, Ms Blakeman.

***4:45***

**Ms Blakeman:** No, I wasn't. I'm just trying to be clear because I'll now be subbed back off this committee. As I brief the person who should be on the committee: are you going to hold public meetings to hear these people?

**The Chair:** With the agreement of the committee. Unless you want to indicate that agreement now, but I think what we need to do is give everyone a chance to review the list, indicate to the clerk which groups you're interested in. All of these people have written letters in the intervening period of time since the last time we did this. It's an opportunity for people to present on the record. So that will be forthcoming.

**Ms Blakeman:** Okay.

**The Chair:** All right. I think I've covered it.
Ms Blakeman.

**Ms Blakeman:** Sorry. One more thing. This was not what the committee was charged to do, but it's the only place I have to ask the question. The original committee that was struck to review the Health Information Act did make a number of recommendations about issues that should be followed up on and recommended that a second committee be struck to follow through on those recommendations. Ms Notley referred a couple of times to that list. Where is that? We've now seen two pieces of legislation come forward onto the floor – one a private member's bill, one a government bill – dealing with issues that were raised as part of that, but there has never been a second committee that was charged to meet. We've now had this committee, that's dealt specifically with what is in Bill 52, again amending the Health Information Act, and still we've never completed the work that was supposed to come out of the review.

**The Chair:** Okay. I'm not sure I'm in a position to answer your question. The answer, I think, would have to come from government. You're referring to the select special committee that reported in 2004.

**Ms Blakeman:** Correct.

**The Chair:** Unless Mr. Chamberlain can enlighten us, I don't know if the government responded to that report.

**Mr. Chamberlain:** I don't recall if there was a formal response. I can tell you that the department had looked at many of those issues and done some policy work, and a lot of those issues were addressed in these amendments. But I don't know if the government ever formally responded. I honestly don't remember.

**The Chair:** It's probably a question best directed to the minister, Ms Blakeman.

**Ms Blakeman:** I'm so looking forward to that exchange. Okay. Thank you.

**The Chair:** Well, we'll leave that to you.

**Ms Blakeman:** Great. Thanks.

**The Chair:** Any other business?

Just in closing, I'd like to thank everyone for their work on our review of the bill. Just in case you're interested, we've met for over 20 hours on the bill over two sessions, the fall and the spring session, when the bill was brought back. We had a total of 69 written submissions to the committee. A number of those made oral presentations as well. I think we've done a good job of soliciting and hearing and considering public input on the bill, and I'd like to thank all of you for your work over the last two sessions of the Assembly to complete this.

The next meeting will be at the call of the chair.

I'll ask for a motion to adjourn. Mr. Quest. Thank you. Those in favour? Thanks very much.

[The committee adjourned at 4:49 p.m.]

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