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**BY EMAIL**

Daniel Therrien  
Privacy Commissioner of Canada  
Office of the Privacy Commissioner of Canada  
30 Victoria Street  
Gatineau, Quebec K1A 1H3

Dear Mr. Therrien:

**Canada Revenue Agency and Statistics Canada – Privacy Breach**

We are outside counsel to the Ontario Specialists Association (the “**OSA**”), an advocacy group that represents the interests of Ontario’s specialist physicians.

On behalf of the OSA, we are writing to complain about the conduct of Canada Revenue Agency (“**CRA**”) and Statistics Canada (“**StatsCan**”), who, at the request of the Ontario Medical Association (“**OMA**”), are in the process of improperly disclosing personal information about physicians and their professional corporations to the OMA.

The OMA is a not-for-profit corporation that is authorized by an Ontario statute to collect mandatory dues from every Ontario physician, whether or not they are a member of the association.

We understand that the OMA recently asked the CRA and StatsCan to disclose to the OMA data about all Ontario physicians and their professional corporations’ overhead claims on their tax returns. Notably, this request does not concern data belonging to OMA members – it concerns professional corporations (which are not members of the OMA) and includes data from professional corporations owned by physicians who are not members of the OMA.

Moreover, the request was made without proper authority or consent from the OMA’s members. The OMA claimed it has the authority to request these personal and highly private data about physicians and their professional corporations by relying on the principle of implied consent. Apparently, because the OMA’s privacy policy states that it may collect (unspecified) data about its members, it claims that its members have consented to the OMA collecting their private tax information as well as tax information from their professional corporations.

This is patently incorrect and stretches the concept of implied consent past the breaking point. The OMA is a membership-based organization that has not expressly communicated to its members its intention to seek and use physicians' personal tax data, nor does it have its members' (and non-members physicians') consent to collect the data for any purpose, let alone the purpose for which it intends to use the data.

What's worse, it is undisputed that the CRA and StatsCan have not sought consent from either the physicians or their professional corporations to disclose their personal taxpayer data to StatsCan or the OMA. This puts these taxpayers in an untenable position: by law they are required to disclose their overhead costs to CRA on their tax returns. It is not optional. But by doing so, without intervention from the Privacy Commissioner, they are now at risk of having these personal, highly private, highly sensitive financial data disclosed to a third party without their consent.

The OMA, CRA and StatsCan have breached most of the PIPEDA fair information principles that form the ground rules for the collection, use and disclosure of personal information. The OSA respectfully requests that the Office of the Privacy Commissioner of Canada order the OMA, CRA and StatsCan to immediately terminate any steps related to collecting, gathering and/or disclosing these data.

Yours truly,



Andrew Winton

copy to: Allan O'Dette, CEO, Ontario Medical Association  
Dr. Samantha Hill, President, Ontario Medical Association  
Dr. Timothy Nicholas, Chair, Ontario Medical Association  
Dr. Adam Kassam, President-Elect, Ontario Medical Association  
Dr. David Jacobs, OSA Chair  
Dr. John Parker, Cardiology  
Dr. Baseer Khan, EPSO  
Dr. Michael Gould, Gastroenterology  
Dr. Joseph Noora, Cardiac Surgery  
Dr. Mark Prieditis, Diagnostic Imaging  
Dr. Mark Benaroia, Nephrology  
Dr. Christopher O'Brien, Nuclear Medicine  
Dr. Aditya Bharatha, Neuroradiology