

MD's affidavit decries company's use of prescription data mining

An affidavit filed with the Federal Court's Trial Division says a ruling by the federal privacy commissioner violates physicians' privacy rights and "could have significant social repercussions and negatively impact on the physician-patient relationship."

The affidavit was sworn by CMA Past President Victor Dirnfeld to support the association's application for intervenor status in the court challenge of

a 2001 ruling by the federal privacy commissioner, George Radwanski (*CMAJ* 2003;168[3]:327). The ruling dismissed a complaint concerning information on physicians' prescribing habits that was being collected by IMS Health (Canada) without doctors' consent. The company buys the information from pharmacies and sells it to clients, including drug companies. The process, often called data mining (see

Osler Library's irreplaceable texts now protected

The doors of McGill University's Osler Library of the History of Medicine are open again. The library, inaugurated in May 1929, contains one of the world's finest history-of-medicine collections. It had closed only once before, in 1965.

The latest closure, which lasted 5 months, ended Nov. 27. It was required because of a much needed renovation demanded by Montreal's weather patterns. In particular, the city's fluctuating humidity and temperature levels were threatening the entire collection, which includes incunabula — books printed prior to 1500. Most of the 8000 works in Sir William Osler's original donation to McGill, which are catalogued in the *Bibliotheca Osleriana*, were at risk. The goal was to install 2 systems of climate control, 1 to preserve the more stable (less acidic) books published before 1840 and another to protect those published after 1840. (Wood pulp and chemicals were used to make paper after 1840, producing high acidity levels. Over time, this results in brittle, crumbling pages.)

In the original Osler Room, a new system was devised to provide for a narrowly regulated temperature range around 18° C and a relative humidity of 40%. Part of the ingenuity is that the system uses the books and their shelves as part of the climate-control barrier. Books produced after 1840, whose pages are more acidic and benefit from the cool, dry winter weather, are in storage rooms with exterior walls surrounding the central area. Less acidic works are protected by their central location, away from all exterior walls.

An attractive new feature is the Scholars' Room, where rare books and manuscripts can be studied and kept on reserve, and benefit from the same precise climate control. In addition, the library now enjoys state-of-the-art protection against fire, theft and vandalism.

The renovations were funded largely by Dr. John McGovern, the allergist who founded the American Osler Society. During the reopening, Dr. William Feindel, the Honorary Osler Librarian, donated to the library 2 books by Thomas Willis: *Cerebri Anatome* (1666) and *De Anima Brutorum* (1672). — Ken Flegel, Montreal



The Osler Library's new Scholars' Room

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CMAJ 2000;163[9]:1146-8), is outlawed in British Columbia.

Radwanski ruled that no privacy rules are being breached because the data being gathered do not consist of personal information about physicians. "The prescription is not, in any meaningful sense, 'about' the physician. It does not tell us how he goes about his activities, whether he is casual or formal, whether he works mornings or afternoons, whom he meets, where he goes, what views he holds, or any of the other myriad details that might constitute personal information."

Radwanski ruled that the information "is really a work product, which is distinct from information about the individual."

Dirnfeld disagrees. In his affidavit, the Richmond, BC, internist warned that the distribution of information about physicians' prescribing habits for some drugs, such as methadone or emergency contraception products, "could have ramifications for the personal safety and well-being of the physician in question."

He is also concerned about the effect on the physician-patient relationship. "Contemplate Patient X, who asks her physician, 'Who would know or want to know that you as my physician write so many prescriptions for this type of medication?' ... The physician in this scenario would have to answer, 'I do not know and I have no right to know or control who has access to my prescribing pattern.'"

The 13-page affidavit states that "this perceived and indeed actual loss of control by physicians over information that they create could very well shatter" patients' confidence in doctors' ability to safeguard other health information.

If intervenor status is granted, the CMA would be allowed to present these and other arguments in court. — Patrick Sullivan, CMAJ