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## Health card acceptable for voting but not for mortgage

Why is an Ontario photo health card not a valid form of identification for purposes of a real estate transaction, but it's perfectly acceptable for the federal election next week?

Whenever clients sign mortgage documents with their real estate lawyers, virtually all lenders require the lawyer to confirm the client's identity by making a photocopy of the ID documents and signing a form certifying that the lawyer has personally examined those documents.

Most lenders even provide a list of eligible, and ineligible, documents. Lawyers can choose two documents from the list in column A (photo ID documents), or one document from column A and one from those in column B.

Eligible documents include a passport, citizenship card, credit card, driver's licence and identity cards from "well-known" employers.

Those mortgage lenders who provide lists of eligible documents uniformly exclude the Ontario health card, but never explain why it cannot be used.

In my practice, I have had a number of borrower clients who have no driver's licence, passport or photo ID other than the health card. This inevitably creates a problem complying with the bank's identification requirements, since the health card is unacceptable.

In light of the long-standing prohibition on using health cards, I was surprised when a brochure from Elections Canada arrived at the house recently advising voters that they must prove their identity and address before being allowed to vote next week.

The Ontario health card was listed right there on the Elections Canada form in the lists of acceptable identification documents. Thinking there must be some mistake, I resolved to find out why I cannot use a health card to identify myself when signing a mortgage, but it would be perfectly acceptable when voting for my Member of Parliament.

I had always thought that a health card was unacceptable since there were more of them in circulation than there are citizens of Ontario, but that may well be an urban (and suburban) legend.

After some research, I eventually discovered Section 34 of the Personal Health Information Protection Act, 2004 (online at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca)).

The stated purpose of the legislation, among other things, is to establish rules to protect the confidentiality and privacy of personal health information.

In Section 34, the legislation says that a health information custodian (in other words, a health-care practitioner) or his or her agent shall not collect or use another person's health number except for the purposes of providing provincially-funded health resources to that other person.

Otherwise, it's against the law to require a person to produce his or her health card. Even if they produce it voluntarily, however, it's illegal for a lawyer to "collect or use" the health card number for the purposes of proving the client's identity in a real estate transaction.

So, on Election Day, it seems that a voter may identify him or herself to an election officer by voluntarily producing an Ontario health card as long as the official does not write down the number.

For Ontario residents without driver's licences or passports, it's clearly easier to vote than it is to sign mortgage documents.

Also on the issue of identification, new Law Society rules come into force at the end of this month requiring lawyers to verify client identity in every matter, not just real estate purchases and mortgages.

The rules have been made at the urging of the federal government to deter money laundering and the financing of terrorist activities.

The Law Society of Upper Canada has issued a 28-page "guideline" to assist lawyers in complying with the new rules.

Similar identification requirements are already in place for clients of real estate agents.

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