



## INVESTIGATION REPORT 096-2017

### Regina Qu'Appelle Regional Health Authority

September 20, 2017

#### Summary:

The Mental Health Clinic at the Regina Qu'Appelle Regional Health Authority (RQRHA) was unsuccessful in contacting a patient by telephone so it sent a letter in an attempt to contact her. RQRHA did not include the patient's name in the recipient address on the envelope. The occupant of the house to which the letter was delivered opened the envelope and read the letter. The letter contained the patient's full name and date of birth. The occupant of the house reported the privacy breach to the Information and Privacy Commissioner (IPC). The IPC made a number of findings including RQRHA's work standard is reasonable. He made some recommendations including that the Mental Health Clinic limit the amount of personal health information in letters to the name of the intended recipient and to remove the date of birth from letters.

#### I BACKGROUND

- [1] An individual received a letter that was sealed in an envelope from the Regina Qu'Appelle Regional Health Authority (RQRHA). The return address on the envelope appeared as follows:

3rd Floor  
2110 Hamilton St.  
Regina, SK S4P 2E3

- [2] The recipient address included the house number and street name, city and province, and postal code. It did not include the intended recipient's name. Therefore, the occupant of the house opened the envelope. Contained in the envelope was a letter that contained the first, middle, and last name of an individual and the individual's date of birth. The letter

indicated that the Intake Unit of RQRHA's Mental Health and Addictions had been unsuccessful in contacting the individual to discuss services. It requested that the individual contact an intake worker.

[3] The occupant of the house forwarded the envelope and letter to my office.

[4] On May 17, 2017, my office notified RQRHA that it would be undertaking an investigation into the matter.

## II DISCUSSION OF THE ISSUES

### 1. *Is The Health Information Protection Act (HIPA) engaged?*

[5] HIPA is engaged when three elements are present: 1) personal health information, 2) a trustee, and 3) the personal health information is in the custody or control of the trustee.

[6] First, personal health information is defined in subsection 2(m) of HIPA, which provides:

2 In this Act:

...

(m) "personal health information" means, with respect to an individual, whether living or deceased:

...

(ii) information with respect to any health service provided to the individual;

...

(iv) information that is collected:

(A) in the course of providing health services to the individual;

(v) registration information;

[7] Subsection 2(q) of HIPA defines registration information as follows:

2(q) "registration information" means information about an individual that is collected for the purpose of registering the individual for the provision of health services, and includes the individual's health services number and any other number assigned to the individual as part of a system of unique identifying numbers that is prescribed in the regulations;

[8] It is likely that RQRHA collected the individual's name and date of birth when it had provided health services to her. Therefore, I find that personal health information is present.

[9] Second, trustee is defined by subsection 2(t) of HIPA, which provides:

2 In this Act:

...  
(t) "trustee" means any of the following that have custody or control of personal health information:

...  
(ii) a regional health authority or a health care organization;

[10] Since RQRHA is a regional health authority as defined by subsection 2(1)(p) of *The Regional Health Services Act*, I find that RQRHA qualifies as a trustee pursuant to subsection 2(t)(ii) of HIPA.

[11] Third, RQRHA had the individual's personal health information in order to write and send the letter. Therefore, I find that RQRHA has custody or control over the personal health information.

[12] I find that HIPA is engaged.

## **2. Was there an unauthorized disclosure of personal health information?**

[13] Disclosure is the sharing of personal health information with a separate entity, not a division or branch of the trustee organization.

[14] Trustees must only disclose personal health information in accordance with subsection 27(1) of HIPA, which provides:

27(1) A trustee shall not disclose personal health information in the custody or control of the trustee except with the consent of the subject individual or in accordance with this section, section 28 or section 29.

[15] In this case, the disclosure of the individual's personal health information to the occupant of the house was not authorized by subsection 27(1) of HIPA. Therefore, I find that this incident was an unauthorized disclosure of personal health information.

### **3. Did RQRHA respond to the privacy breach appropriately?**

[16] My office suggests that trustees undertake the following five steps when responding to a privacy breach:

- Contain the privacy breach,
- Notify affected individuals,
- Investigate the privacy breach,
- Prevent future privacy breaches,
- Write an investigation report.

[17] Below is an analysis of each step to determine if RQRHA has adequately responded to the privacy breach.

#### **Contain the privacy breach**

[18] To contain the breach is to ensure that personal health information is no longer at risk. This may include recovering the records, revoking access to personal health information in an electronic system, and/or stopping the unauthorized practice.

[19] In this case, the personal health information was recovered when the occupants of the house provided my office with the envelope and letter containing the personal health information. I find that the privacy breach was contained.

#### **Notifying the affected individual**

[20] Notifying affected individuals of the privacy breach as soon as possible is important so that individuals can determine how they have been impacted and take steps to protect themselves. Notifications should include the following:

- A description of what happened,
- A detailed description of the personal health information that was involved,
- A description of possible types of harm that may come to them as a result of the privacy breach,
- Steps that the individuals can take to mitigate harm,
- Steps the trustee is taking to prevent similar privacy breaches in the future,
- The contact information of an individual within the trustee organization who can answer questions and provide further information,
- A notice that individuals have a right to complain to the Office of the Information and Privacy Commissioner (IPC),
- Recognition of the impacts of the breach on affected individuals and an apology

[21] RQRHA indicated that it cannot notify the affected individual of the privacy breach because it does not have current contact information for the individual. It said it has noted the privacy breach in the individual's client file. If the individual does contact the clinic at RQRHA, she will be advised immediately of the privacy breach. I find this reasonable since the letter was sent because RQRHA had been unsuccessful in contacting her.

### **Investigate the privacy breach**

[22] Investigating the privacy breach to identify the root cause is the key to understanding what happened. Understanding what happened will help prevent similar breaches in the future.

[23] RQRHA's investigation report indicated that the privacy breach was not intentional but that the error was a result of an error by a new administrative employee who was in the process of being trained. Also, there was a lack of employee quality assurance.

[24] RQRHA also stated that it lacked a work standard which contributed to the privacy breach.

### **Preventing the privacy breach**

[25] Preventing future breaches means to implement measures to prevent future breaches from occurring.

[26] RQRHA drafted a work standard for how the Mental Health Clinic is to manage situations where it is unable to contact a patient by telephone. Where the Mental Health Clinic is unable to contact the patient by telephone, it is to send a letter. It has template letters for its staff to use to create the letter. Then, the envelope is to be addressed to the recipient using the first initial and the last name only. The example provided in the work standard is below:

S. Johnson  
1111 MHC Drive  
Regina, SK  
H0H 0H0

[27] The work standard also indicates that the return address on the envelope is to be as follows:

2110 Hamilton Street  
Regina, Saskatchewan  
24P 2E3

[28] It should be noted that the example of the return address in the above work standard does not include the phrase “Mental Health Clinic”. I find the above instructions in the work standard to be reasonable. However, as shown at paragraph [1], it appears that the return address on the envelope that was used had the phrase “Mental Health Clinic”. An employee had taken a black marker to the return address on the envelope in an attempt to redact the phrase “Mental Health Clinic”. Unfortunately, the phrase is still legible. If it has not already done so, I recommend that RQRHA stop the practice of using a black marker to redact the return address. I recommend that RQRHA use envelopes that only have the return address as identified in the work standard and does not identify the Mental Health Clinic as the department sending the letters. This is so that postal workers, roommates, family members, and any other individuals who may see the envelope cannot infer that the individual has sought services from the Mental Health Clinic.

[29] Further, in the course of this investigation, my office made two recommendations to RQRHA. The first recommendation was that RQRHA use double-envelopes to contain the letter. The double-envelope can give pause to roommates and other people living at

the same address as the intended recipient from opening up the letter accidentally. RQRHA should consider double-enveloping in some circumstances, including when it is uncertain of the intended recipient's address. The second recommendation was that RQRHA limit the personal health information contained in the letter to only the name of the intended recipient and to remove the date of birth. The date of birth is a key piece of information sought by identity thieves to impersonate individuals. If letters are misdirected, the person who may open the letter is not privy to the intended recipient's date of birth and the intended recipient is less vulnerable to identity theft. RQRHA was hesitant in accepting these two recommendations. I recommend that RQRHA consider accepting these two recommendations.

### **III FINDINGS**

[30] I find that HIPA is engaged.

[31] I find that this incident was an unauthorized disclosure of personal health information.

[32] I find that the privacy breach was contained.

[33] I find that it is reasonable that RQRHA notify the affected individual if/when she contacts Mental Health Services because RQRHA does not have her current contact information.

[34] I find the instructions in the work standard to be reasonable.

### **IV RECOMMENDATIONS**

[35] I recommend that RQRHA, if it has not already done so, stop the practice of using a black marker to redact the phrase "Mental Health Services" in the return address.

[36] I recommend that RQRHA, if it has not already done so, use envelopes that only have the return address as identified in the work standard and does not identify the Mental Health Clinic as the department sending the letters.

[37] I recommend that Mental Health Services of the RQRHA consider using double-envelopes when it sends letters to patients in some circumstances, including when it is uncertain of the intended recipient's address.

[38] I recommend that Mental Health Services limit the personal health information contained in the letter to only the name of the intended recipient and to remove the date of birth from letters.

Dated at Regina, in the Province of Saskatchewan, this 20th day of September, 2017.

Ronald J. Kruzeniski, Q.C.  
Saskatchewan Information and Privacy  
Commissioner