



## **INVESTIGATION REPORT 151-2017, 208-2017, 233-2017, 235-2017**

### **Regina Qu'Appelle Regional Health Authority**

**November 22, 2017**

**Summary:** Incidents of dictated reports being sent to the incorrect physician was reported to the Information and Privacy Commissioner (IPC). Regina Qu'Appelle Regional Health Authority (RQRHA) was responsible for four of the incidents. He recommended that RQRHA and 3sHealth create a process where they are able to track when the first name of physicians is not dictated and spelled out in order to identify which physicians (including residents) may require additional dictation training. He also recommended that transcriptionists receive annual privacy training.

### **I BACKGROUND**

- [1] Regional health authorities, Saskatchewan Cancer Agency, and 3sHealth are working towards creating a provincial transcription service using Fluency for Transcription software. The software creates a voice profile for physicians (including residents) who dictate patient reports. Once a physician finishes dictating a report, the dictated report is sent to a transcriptionist at 3sHealth. The transcriptionist will then review the dictated reports and manually make corrections. As corrections are made, the software will learn and adjust the voice profile for each individual user. The goal is to increase the accuracy of the software's ability to convert dictated patient reports to text with minimal correction.
- [2] Six incidents of dictated reports being sent to the incorrect physician was reported to my office by Dr. Suzanne Meiers. Four of the incidents pertain to the Regina Qu'Appelle

Regional Health Authority (RQRHA) and the remaining two pertain to the Saskatoon Regional Health Authority (SRHA). This report is about the four incidents related to the RQRHA. The SRHA incidents are discussed in a separate report.

- [3] Incident #1 occurred in July 2017. A patient was seen in the ambulatory care unit at the Regina General Hospital by one of Dr. Suzanne Meiers' colleagues while she was away. The consultation report was dictated by a resident. The transcribed report was then erroneously sent to Dr. Pamela Meiers in Saskatoon. Dr. Pamela Meiers notified Dr. Suzanne Meiers of the error.
- [4] Incident #2 occurred in August 2017. Dr. Suzanne Meiers had a consultation with a patient. The consultation report was dictated by a resident. Then, the transcribed report was erroneously sent to Dr. Pamela Meiers. Again, Dr. Pamela Meiers reported the error to Dr. Suzanne Meiers.
- [5] Incident #3 occurred in September 2017. A record containing the personal health information of one of Dr. Suzanne Meiers' patients was mistakenly forwarded by RQRHA Medical Imaging Department to Dr. Pamela Meiers. Dr. Pamela Meiers reported the error to Dr. Suzanne Meiers.
- [6] Incident #4 occurred also in September 2017. A consultation report about one of Dr. Suzanne Meiers' patients was sent to Dr. Pamela Meiers. Dr. Pamela Meiers reported the error to Dr. Suzanne Meiers.

## **II DISCUSSION OF THE ISSUES**

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

- [7] 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.
- [8] First, "personal health information" is defined by 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:

(i) information with respect to the physical or mental health of the individual;

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

(iii) information with respect to the donation by the individual of any body part or any bodily substance of the individual or information derived from the testing or examination of a body part or bodily substance of the individual;

(iv) information that is collected:

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

(B) incidentally to the provision of health services to the individual; or

(v) registration information;

[9] The patient records in all four incidents contain personal health information as defined by HIPA.

[10] Second, “trustee” is defined by subsection 2(t)(ii) 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;

[11] I find that RQRHA qualifies as a trustee as defined by subsection 2(t)(ii) of HIPA. Specifically, individuals who dictate (such as residents) or transcribe the reports were providing a service on behalf of RQRHA.

[12] Third, through a shared services agreement, 3sHealth provides transcription services on behalf of RQRHA. 3sHealth is an information management service provider (IMSP) for RQRHA. Subsection 2(j) of HIPA defines an IMSP as follows:

2 In this Act:

...

(j) “information management service provider” means a person who or body that processes, stores, archives or destroys records of a trustee containing personal health information or that provides information management or information technology services to a trustee with respect to records of the trustee containing personal health information, and includes a trustee that carries out any of those activities on behalf of another trustee, but does not include a trustee that carries out any of those activities on its own behalf;

[13] Subsection 18(1) of HIPA describes the role of an IMSP as follows:

18(1) A trustee may provide personal health information to an information management service provider:

(a) for the purpose of having the information management service provider process, store, archive or destroy the personal health information for the trustee;

(b) to enable the information management service provider to provide the trustee with information management or information technology services;

(c) for the purpose of having the information management service provider take custody and control of the personal health information pursuant to section 22 when the trustee ceases to be a trustee; or

(d) for the purpose of combining records containing personal health information.

[14] Any personal health information that 3sHealth, as an IMSP, handles on behalf of RQRHA remains the responsibility of RQRHA. At issue is how records were distributed from 3sHealth (IMSP) to a physician. Since 3sHealth is the IMSP for RQRHA, then RQRHA has custody or control over the records in both incidents.

[15] Based on the above, I find that HIPA is engaged.

## **2. Were there unauthorized disclosures of personal health information?**

[16] Disclosure is the sharing of personal health information with a separate entity that is not a division or branch of the trustee organization. Trustees must only disclose personal health information in accordance with section 27 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.

[17] In all four incidents, patient records meant for Dr. Suzanne Meiers were erroneously sent to Dr. Pamela Meiers. I find that these errors are unauthorized disclosures of personal health information.

### **3. Did RQRHA respond to these incidents appropriately?**

[18] My office recommends that trustees take the following five steps when responding to a privacy breach:

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

[19] I will consider each of these steps to determine if RQRHA adequately responded to the privacy breach.

#### ***Contain the Breach***

[20] The first step in responding to a privacy breach is containing the breach. This means to recover the personal health information or to stop the unauthorized practice when the trustee learns of the breach.

[21] For all four incidents, Dr. Suzanne Meiers recovered the records from Dr. Pamela Meiers. I find that the breach has been contained.

#### ***Notify the affected individuals***

[22] Notifying affected individuals that their personal health information has been inappropriately disclosed is important for a number of reasons. Not only do individuals have a right to know, they need to know in order to protect themselves from

any potential harm that may result from the inappropriate disclosure. Unless there is compelling reason not to, trustees should always notify affected individuals.

[23] RQRHA sent a notification letter to the patients affected in the incidents except for incident #2. That is because the affected individual in incident #2 is now deceased.

### ***Investigate the breach***

[24] Investigating the privacy breaches to identify the root cause is key to understanding what happened and to prevent similar breaches in the future.

[25] RQRHA investigated the incidents and identified the following as factors leading to the incidents:

- The dictating resident did not dictate the full first and last names of the attending physician,
- The dictating resident does indicate the full first and last names of the attending physician but the transcriptionist selected the incorrect physician,
- The transcriptionist did not follow the “if in doubt, leave it out” standard, and/or
- Quality Assurance at 3sHealth did not enforce the “if in doubt, leave it out” standard.

### ***Preventing future breaches***

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

[27] RQRHA and 3sHealth already have the following safeguards in place:

- The Provincial Transcription Services Guide, which is a manual on standards that are to be used for transcription. It is available at <http://www.3shealth.ca/documents/PTS-DictationManual-Acute.pdf>. This guide is distributed to transcriptionists and Quality Assurance at 3sHealth.
- RQRHA requires that all residents attend a mandatory orientation on RQRHA’s requirements. This includes a presentation that addresses dictation. RQRHA provided my office with a copy of the PowerPoint slide presentation. The

presentation emphasizes that the resident should dictate their own first and last name and the first and last name of the physician for whom they are dictating.

- RQRHA dictation rooms include posters with instructions on how to dictate, including how the first and last names of physicians should be dictated. It also provides physicians who dictate with a 3-part folding card that has dictating instructions. The card can be folded to a 9.5 cm by 7 cm size and inserted with an ID badge.
- The Manager of Health Information Management Services at RQRHA also sent an email in August 2017 to the College of Medicine to be forwarded to all residents reminding them that they must state the first and last name of the physician for whom they are dictating a report.
- 3sHealth's Managers of the Provincial Transcription Services sent an email dated September 25, 2017 as a reminder to all transcriptionists an email dated September 25, 2017 to remind them that if they are unsure as to who the intended recipient should be, then they are **not** to guess.
- RQRHA's Academic Health Sciences Department is also advising all Regina Teaching Coordinators about the privacy breaches resulting from dictation errors so they can remind their faculty and students to be accurate in its dictation. It is also working with the College of Medicine to understand how students are being trained to dictate and to determine if it can provide additional information to the College for the purpose of dictation training.
- Where it has been determined that a transcriptionist has made an error, 3sHealth's Quality Assurance will monitor the work of that transcriptionist for further errors. If another error occurs, the transcriptionist is removed from work contracted between RQRHA and 3sHealth.

[28] I find that the above efforts are reasonable in attempting to minimize and prevent dictation and transcription errors in the future.

[29] In addition to the above, I recommend that RQRHA and 3sHealth create a process where transcriptionists track when they encounter incidents where the first name of the physician is not dictated. Tracking such instances may signal to the transcriptionist that he or she has insufficient information to select a doctor to whom they distribute the patient report. This tracking will also help 3sHealth identify which physicians (including residents) may require additional training or reminders to dictate and spell the first and last name of physicians to which the patient report should be distributed. Training and reminders must emphasize dictating and spelling the first and last names of physicians.

This is to avoid errors due to names that are difficult to pronounce, atypical spellings of names, or silent letters in names.

[30] I also recommend that RQRHA and 3sHealth require that transcriptionists receive annual training on privacy that includes reminding them that if they are unsure who the intended recipient of a report should be, they are **not** to guess.

[31] In an email dated November 7, 2017 to my office, RQRHA indicated that the two recommendations have been accepted and implemented.

### ***Write a privacy breach report***

[32] Documenting privacy breaches and the trustee's investigations into the breaches is a method to ensure the trustee follows through plans to prevent similar breaches in the future.

[33] RQRHA provided my office with its internal investigation report into the incidents that described the breaches, how it responded to the breaches, and steps it will take to prevent similar privacy breaches in the future (as described in this report).

## **III FINDINGS**

[34] I find that HIPA is engaged.

[35] I find that where patient records were meant for Dr. Suzanne Meiers but were erroneously sent to Dr. Pamela Meiers are unauthorized disclosures.

[36] I find that RQRHA has contained the breaches.

[37] I find that RQRHA has notified the affected individuals.

[38] I find that RQRHA has investigated the privacy breaches.



[39] I find that RQRHA has and is taking appropriate steps to prevent similar privacy breaches.

[40] I find that RQRHA has written a privacy breach report on the incidents.

#### **IV RECOMMENDATION**

[41] I recommend that RQRHA continue in its efforts as described from paragraphs [27] to [31].

Dated at Regina, in the Province of Saskatchewan, this 22nd day of November, 2017.

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