



Office of the
Saskatchewan Information
and Privacy Commissioner

INVESTIGATION REPORT 205-2015

Dr. Margaret Bartsch

December 14, 2015

Summary: Dr. Margaret Bartsch contacted the Office of the Information and Privacy Commissioner to proactively report a privacy breach that occurred when personal health information was stolen from her personal residence. The Commissioner found that she did not meet the duty to protect personal health information as outlined in section 16 of *The Health Information Protection Act* (HIPA) and recommended that she put stronger safeguards in place.

I BACKGROUND

- [1] On November 10, 2015, Dr. Margaret Bartsch contacted my office to proactively report a privacy breach. Personal health information of 35 individuals was stolen from her personal residence.
- [2] On the same day, my office provided notification to Dr. Bartsch that we would undertake an investigation into the matter.

II DISCUSSION OF THE ISSUES

1. Does HIPA apply?

- [3] *The Health Information Protection Act* (HIPA) applies when three elements are present. The first element is personal health information, the second element is a trustee, and the

third element is if the personal health information is in the custody or control of the trustee.

[4] Dr. Bartsch indicated that the “encounter sheets” of all of the patients she had seen on November 6, 2015 had been in her briefcase was stolen from her house on the morning of November 8, 2015. She indicated that the sheets contained registration information as defined by subsection 2(q) of HIPA as well as other personal health information pursuant to subsection 2(m) of HIPA.

[5] Dr. Bartsch is a trustee pursuant to subsection 2(t)(xiii)(A) of HIPA. The personal health information in question was in her custody. Therefore, HIPA applies.

2. Did Dr. Bartsch meet the duty to protect pursuant to section 16 of HIPA?

[6] Dr. Bartsch indicated that the encounter sheets were in her brief case. The brief case was stolen from her home in addition to personal belongings. While Dr. Bartsch did not intend for the personal health information to be stolen, section 16 of HIPA requires that a trustee have administrative, technical and physical safeguards to protect personal health information from hazards, such as a burglary.

[7] Section 16 of HIPA states:

16 Subject to the regulations, a trustee that has custody or control of personal health information must establish policies and procedures to maintain administrative, technical and physical safeguards that will:

- (a) protect the integrity, accuracy and confidentiality of the information;
- (b) protect against any reasonably anticipated:
 - (i) threat or hazard to the security or integrity of the information;
 - (ii) loss of the information; or
 - (iii) unauthorized access to or use, disclosure or modification of the information; and
- (c) otherwise ensure compliance with this Act by its employees.

[8] During my investigation, Dr. Bartsch indicated that neither her house nor her briefcase was locked. These are basic physical safeguards that were not in place. Dr. Bartsch also provided my office with the privacy policy of her office. The privacy policy does not

address physical safeguards to protect personal health information, particularly when it is removed from the clinic. This is an essential administrative safeguard which was not in place. This lack of safeguards did not protect against a reasonably anticipated threat to the security or integrity of the information. Dr. Bartsch did not meet the duty to protect as outlined in section 16 of HIPA.

- [9] Since the incident, Dr. Bartsch has taken appropriate steps to address the situation. She has contacted the police, the Saskatchewan Medical Association (SMA), the College of Physicians and Surgeons of Saskatchewan and our office to report the situation. She has also notified all of the affected individuals of the theft. Additionally, she has indicated that she plans to take measures to prevent similar occurrences. The steps she plans to take include locking her house and briefcase when they contain personal health information, installing video surveillance in her home as well as limiting how much personal health information she takes home.
- [10] My office recommends that Dr. Bartsch take additional steps. Most importantly, Dr. Bartsch and her clinic should update and expand its privacy policy to address all necessary physical, administrative and technical safeguards. Guidance can be found in resources available through the SMA. These policies should address protecting personal health information that is removed from the clinic.
- [11] Dr. Bartsch should also consider other proactive physical safeguards for personal health information at her home, such as storing personal health information in a safe. Video surveillance, although a good step, is a more reactive measure as it can be used to identify a thief once personal health information has been lost.
- [12] Finally, Dr. Bartsch has indicated that her clinic has an Electronic Medical Record (EMR) in clinic. Perhaps an alternative would be to not take such information home but to remotely log in to her clinic's EMR to access patient information.

III FINDINGS

[13] I find HIPA applies in this situation.

[14] I find Dr. Bartsch did not meet the duty to protect imposed by section 16 of HIPA.

IV RECOMMENDATION

[15] I recommend that Dr. Bartsch ensure that she has appropriate safeguards in place, including those discussed in this report, to meet the duty to protect personal health information.

[16] I recommend that Dr. Bartsch explore the option of remotely accessing her EMR from home which would eliminate the need of bringing paper or electronic records home.

Dated at Regina, in the Province of Saskatchewan, this 14th day of December, 2015.

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