



INVESTIGATION REPORT 014-2023, 015-2023

Dr. Wes Antosh (Saskatoon Smiles Dental Group)

September 13, 2023

Summary: Individual A and Individual B (Complainants) contacted the Commissioner to investigate concerns with how Dr. Wes Antosh (Dr. Antosh) collected and used their personal health information. The Commissioner found that Dr. Antosh did not collect and use the Complainants personal health information in accordance with *The Health Information Protection Act*. The Commissioner made several recommendations, including that Dr. Antosh stop directly or indirectly collecting and using personal health information for the purposes of managing his online reputation/marketing, that he destroy any personal health information he has indirectly collected regarding the Complainants, as well as any other patient, from online sources such as Google, and that he apologize to the Complainants.

I BACKGROUND

[1] This Investigation Report deals with two separate privacy complaints made by Individual A (IPC File 014-2023) and Individual B (IPC File 015-2023) (Complainants) against dentist Dr. Wes Antosh (Dr. Antosh), owner of Saskatoon Smiles Dental Studio (Saskatoon Smiles). The Complainants had been patients of Dr. Antosh

[2] In this matter, Dr. Antosh's lawyer (from McKercher LLP) provided responses on his behalf. I consider these to be Dr. Antosh's responses and so will write my Investigation Report as if Dr. Antosh provided the responses.

[3] On January 19, 2023, Individual A made a complaint to my office as follows:

I [name of Individual A] was contacted via phone call, by a person representing himself as a part of Saskatoon Smiles Dental Studios through two phone calls. I discovered this person is not employee of the business, rather a 3rd party website designer/search engine optimizer. **Phone recordings record this person describes looking at information from my medical files from Saskatoon Smiles Dental Studios and looking at them for the sole reason of finding “merit” for my google review, then threatening myself for “defamation and slander” due to my google review.**

I have made numerous attempts to contact Saskatoon Smiles Dental Studios in regards to notifying them of a breach of privacy - personal contact information as well as medical information, even requested the assistance of the neutral [sic] 3rd party the Better Business Bureau to notify and discuss the breach. Due to lack of co-operation from the business I am unable to describe exactly how much of my personal or medical information was breached, where it was accessed from or how this breach occurred.

[Emphasis added]

- [4] Individual A provided a copy of a phone call they had on December 6, 2022, with an individual who identified themselves as being “Kal” (later identified as the Marketing Director and CEO of [company name redacted]). The purpose of Kal’s call to Individual A was to discuss a Google review Individual A had left for Saskatoon Smiles. In the recording, Kal identified themselves as being “directly employed with Saskatoon Smiles” stating they are a “consultant for the group.” Kal further stated he had, “gone through all the notes with the lawyers” regarding what treatment Individual A had completed at Saskatoon Smiles. Kal further stated that what Individual A had posted on Google was “defamation” and that the business is “able to seek damages.” Individual A provided a second recording of a call they had with Saskatoon Smiles the same day. A receptionist with Saskatoon Smiles stated they had no knowledge of Kal working for Saskatoon Smiles.
- [5] Individual B first contacted my office on January 19, 2023, and on January 24, 2023, submitted the following:

My personal information & cell phone number was given to a 3rd party without my knowledge or consent. This information was given to [redacted] from Media Nv, [address redacted]: a Media Company. The Clinic was Saskatoon Smiles Dental Clinic where I had received subpar dental treatment. I reported them to the College of Dental Surgeons and the doctor in question was reprimanded [dentist name redacted]. **I had left a bad review on their social media. Saskatoon Smiles (Owner Dr. Wes Antosh), then proceeded to give out my personal cell number to a marketing media company in Calgary – Kal Hammediah that also deals with removing bad reviews). I was**

never informed how they would handle my personal information or gave them permission to do so.

Kal has been phoning, texting, & emailing me since August 23rd. He WOULD NOT AND DID NOT disclose who he was or what company he was with. I only know from reverse searching his phone number [number redacted] did I find his full name and Company as of last night. The only thing he would tell me is his name was Kal, and he his [sic] a consultant that represents dental offices all across the prairies and he is an impartial hired 3rd party. He explained his background was law and proceeded to pressure me into signing legal documents in favour of Saskatoon Smiles. When I pressed about his identity/ Company/ Supervisor name, he told me I was paranoid and believe in conspiracy theories and refused to provide any information. By reserve [sic] searching his number on Google, I then found his company name, location, which then led me to his LinkedIn profile. He did video chat with me last night on Whatsapp and I recognized [sic] his face to his LinkedIn [sic] profile. According to his linkedin [sic] account, Kal has a degree in commerce, not law, and is Director and owner of Media Nv a Marketing company.

It is illegal to phone people unsolicited in Canada and not provide identification or what company they represent. Also, I feel he refused so I would not be suspect he was hired by Saskatoon smiles to take down my bad reviews. He did come to an agreement with them and me, however, it was the underhanded and hidden agenda/ sharing of personal information that is not legal to do so. My personal information was also shared with Dr. Antosh's lawyers in Meadow Lake...

[Emphasis added]

[6] The lawyer mentioned by Individual B above was Gerald R. Perkins (Gerald R. Perkins Law Office). Individual B received a letter from him dated November 5, 2021, stating that he represents Dr. Antosh, another dentist and Saskatoon Smiles. He stated that his clients would reimburse Individual B for their expenses if they would sign a release and remove any comments they made regarding Saskatoon Smiles from Facebook, Google, Better Business Bureau and My Business Instagram. The terms of the settlement would have also bound Individual B to pay Dr. Antosh in the amount of \$5,000 for "each breach as a penalty and not as liquidated damages." Individual B refused to sign, and stated they were repeatedly asked by Kal why they would not. Individual B provided copies of text messages between them and Kal to demonstrate the purpose of Kal's contact.

[7] After receiving complaints from Individuals A and B, my office opened files 014-2023 and 015-2023 respectively.

- [8] On March 22, 2023, my office sent the following notification to Dr. Antosh regarding Individual A's complaint:

On January 19, 2023, our office received a request from [name of Complainant] to investigate [their] privacy concerns regarding the potentially inappropriate collection, use, and/or disclosure of [their] personal health information for the purpose of convincing [them] to remove a negative Google review of the Saskatoon Smiles Dental Group/Studio. For instance, the Complainant claims that the Director of Social Media (Kal) stated during a conversation, "I have looked at the notes in terms of what treatments you have had done."

- [9] On March 22, 2023, my office sent the following notification to Dr. Antosh regarding Individual B's complaint:

On January 19, 2023, our office received a request from [Complainant] to investigate [their] privacy concerns regarding the potentially inappropriate collection, use, and/or disclosure of [their] personal health information for the purpose of convincing [them] to remove a negative Google review of the Saskatoon Smiles Dental Group/Studio. For instance, the Complainant claims that the Director of Social Media (Kal) collected [their] dental history and receipts. [They] also claims that the Director of Social Media and a law firm pressured [them] to sign an agreement prohibiting [them] from posting negative reviews online in the future. [They] further claims that [they] requested contact information for your (Saskatoon Smiles Dental Group/Studio) Privacy Officer and was not provided with this information.

...

- [10] On the same date, my office also notified each Complainant of my office's investigation.
- [11] In correspondence dated April 21, 2023, Dr. Antosh responded to each notification, and provided supplemental information in correspondence dated May 31, 2023.
- [12] At issue in this investigation is whether Dr. Antosh had authority to collect and/or use each Complainant's personal health information, including any registration information, for the purpose(s) identified in each notification. If there was no authority to collect or use, then privacy breaches occurred.

[13] For this investigation, it is helpful to understand what role Kal Hammediah (Kal) plays in relation to Dr. Antosh. Dr. Antosh provided my office with a copy of a document titled, “Employment Letter – Director of Social Media” (Employment Letter) dated “2018-09-01”. The letter states that it “constitutes the entire agreement between us with respect to your employment...”. The letter also outlines all Kal’s duties, which includes managing, “the online reputation of all practices within the Saskatoon Smiles Dental Group”.

[14] Given the preceding, I take this letter to mean that Kal is (or was) hired as an “employee” of Saskatoon Smiles as stated, and so I accept that to be the case throughout this investigation.

II DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[15] *The Health Information Protection Act* (HIPA) is engaged when three elements are present: 1) there is a trustee; 2) there is personal health information; and 3) the personal health information is in the custody or control of the trustee.

[16] Regarding the trustee, my office sought a corporate registry check with Information Services Corporation. The search indicated that Dr. Antosh is sole director and officer of “W.R. Antosh D.M.D. Professional Corporation.” A business owned by this corporation is “Saskatoon Smiles Dental Studio.” Pursuant to *The Dental Disciplines Act*, Dr. Antosh is listed as a member of the College of Dental Surgeons of Saskatchewan. Upon review of Order in Council 232/2022, Schedule L, I note that the Minister of Health has responsibility for *The Dental Disciplines Act*. Subsection 2(1)(t)(xii)(A) of HIPA provides as follows:

2(1) In this Act:

...

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

...

(xii) a person, other than an employee of a trustee, who is:

(A) a health professional licensed or registered pursuant to an Act for which the minister is responsible; or

[17] As such, Dr. Antosh is a trustee pursuant to subsection 2(1)(t)(xii)(A) of HIPA.

[18] Next, I need to consider what personal health information is involved. Dr. Antosh stated that when “responding to online statements”, Kal received information regarding if the individual has ever been a patient of Saskatoon Smiles, their email address and their phone number. Dr. Antosh stated he receives this information directly from his patients. Subsection 2(1)(m)(v) of HIPA defines personal health information to include “registration information” as follows:

2(1) In this Act:

...

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

...

(v) registration information;

[19] Subsection 2(1)(q) of HIPA defines registration information as follows:

2(1) In this Act:

...

(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;

[20] An individual’s name and their email address, if given for the purposes of receiving health services, is their personal health information.

[21] In the recording that Individual A provided my office, Kal also stated that he, “went through all the notes” and “looked at the notes in terms of what treatment [Individual A] had done”.

He added that he looked at the information to “understand what treatment [Individual A] had done].” Dr. Antosh also described Kal’s role as follows:

... He supports the provision of services by ensuring clients are satisfied with the services received, and if not, helps determine what Saskatoon Smiles can do to remedy the situation. Through direct inquiries with the client, Mr. Hammediah is able to identify options such as providing additional dental work, making a referral to another dentist, or at a minimum, get a better understanding of the client’s concerns. All of this is consistent with the initial purpose for which the client provides their contact information.

[22] Whether Kal had direct access to a patient record, or was verbally told this information, he still had access to it. In my office’s [Investigation Report 105/2014](#), I stated that personal health information “need not be recorded anywhere for HIPA to apply.” Also, in my office’s [Review Report 171-2021](#) at paragraphs [10] and [11], I acknowledged that a table of names of individuals who tested positive for COVID-19 indicates something about their health status – that they had COVID-19. Similarly, by acknowledging that someone is or was a patient of his dental office, Dr. Antosh is indicating that they received services related to their dental health. This type of information is personal health information pursuant to subsection 2(1)(m)(i) of HIPA, which provides as follows:

2(1) 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;

[23] Therefore, personal health information is involved as defined by subsections 2(1)(m)(i) and (v) of HIPA.

[24] Lastly, to have “custody” means a trustee has physical possession of records with a measure of control over them. “Control” means having authority to manage the records, including storing, restricting and regulating their use. As trustee, Dr. Antosh has responsibility for managing the personal health information of his patients, and so has control over it. This includes any registration information he collects which would have

been in his custody. As such, the personal health information in this matter was in Dr. Antosh's custody or control, including any personal health information accessed, viewed or collected by employees including Kal.

[25] As all three elements are present, I find HIPA is engaged and that I have jurisdiction to conduct this investigation.

2. Did a privacy breach occur?

[26] Once I establish that HIPA is engaged, I can consider if a privacy breach occurred. A privacy breach occurs when there is an unauthorized collection, use and/or disclosure of personal health information.

[27] This matter deals with whether the collection and use of the Complainants' personal health information was authorized by HIPA.

[28] Subsections 24(1) and (2) of HIPA set out the purposes in which personal health information may be collected. Primary purpose is referred to in subsection 24(1) of HIPA as follows:

24(1) A trustee shall ensure that the primary purpose for collecting personal health information is for the purposes of a program, activity or service of the trustee that can reasonably be expected to benefit the subject individual.

...

[Emphasis added]

[29] Primary purpose is defined by HIPA as follows:

2(1) In this Act:

...

(o) "**primary purpose**" means the purpose for which personal health information **was originally collected, and includes any purpose that is consistent with that purpose;**

[Emphasis added]

[30] In my office's Investigation [Report H-2010-001](#), it was stated at paragraph [96] that section 24(1) of HIPA contains three key elements: 1) The collection must be for a service of the trustee; 2) That service must be one that can reasonably be expected to benefit the patient; and 3) The service to the patient must be the primary purpose for the collection activity.

[31] This is consistent with the language found in subsections 27(2)(a) and (b) of HIPA which provides as follows:

27(2) A subject individual is deemed to consent to the disclosure of personal health information:

(a) for the purpose for which the information was collected by the trustee or for a purpose that is consistent with that purpose;

(b) for the purpose of arranging, assessing the need for, providing, continuing, or supporting the provision of, a service requested or required by the subject individual; or

[32] Dr. Antosh stated he collects personal health information including names, phone numbers and emails (or registration information) to provide dental services to his patients. Collecting personal health information to provide dental services would be for providing a service that would reasonably benefit the patient and would be for the primary purpose of performing those health services. A consistent purpose may include contacting a patient after treatment to determine how they are managing and if there is any need for follow up services, referrals, etc. Accordingly, prior to these privacy complaints, any personal health information about the Complainants collected or used for the provision of dental services would have been authorized by HIPA.

[33] However, in this matter, I need to consider if HIPA authorized the subsequent use of personal health information for the types of services Kal and Gerald R. Perkins provided to the Complainants on behalf of Dr. Antosh.

[34] Subsections 26(1) and (2) of HIPA place the following restrictions on a trustee's use of personal health information:

26(1) A trustee shall not use 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.

2) A trustee may use personal health information:

(a) for a purpose for which the information may be disclosed by the trustee pursuant to section 27, 28 or 29;

(b) for the purposes of de-identifying the personal health information;

(c) for a purpose that will primarily benefit the subject individual; or

(d) for a prescribed purpose.

[35] Dr. Antosh outlines some of Kal's specific responsibilities as follows:

- Manage On-page optimization
- Manage Off-page optimization
- Manage WP web security PHP upgrades and plugin assist
- Manage Online Citation listings
- Ensure online listings are accurate to improve NAP for algorithm
- Online reputation management
- Ensure compliance with College Advertising Guidelines

[36] Kal's Employment Letter states that he is responsible for managing "all digital assets" and "all online digital publications". It also includes managing "the online reputation of all practices within the Saskatoon Smiles Dental Group". Dr. Antosh adds that one of Kal's roles is to monitor "social media and reviews" and to engage with patients "in order to better understand the concern and determine if there is anything Saskatoon Smiles can do to fix the situation." I note this latter claim is not outlined in Kal's Employment Letter.

[37] In [ORDER H2007-001](#), the Alberta Information and Privacy Commissioner (AB IPC) reviewed a case of a patient who alleged their physician used their personal health information for the purpose of marketing and soliciting for fundraising under Alberta's *Health Information Act* (HIA). In that matter, the AB IPC found that the physician did not have authority to collect personal health information for this purpose under section 20 of Alberta's HIA, which provides as follows:

20 A custodian may collect individually identifying health information

- (a) if the collection of that information is expressly authorized by an enactment of Alberta or Canada, or
- (b) if that information relates directly to and is necessary to enable the custodian to carry out a purpose that is authorized under section 27.

[38] In ORDER H2007-001, the AB IPC concluded that nothing in sections 20 or 27 of Alberta’s HIA authorized collection of personal health information for the purposes of marketing and soliciting for fundraising, whether consent was given or not. Rather, HIA permits collection of personal health information for “prescribed statutory purposes”, which in that case meant those intended to “benefit the patient” in “circumstances of vulnerability and trust under which it is confided or collected and the fiduciary duties of health professionals”. Using or disclosing personal health information for the purposes of marketing, then, was not authorized.

[39] Similarly, in this matter, I need to consider if Kal and Gerald R. Perkins, on behalf of Dr. Antosh, used the personal health information of the Complainants for the primary purpose of providing a dental service, or for any secondary purposes. In my office’s [Investigation Report H-2005-002](#), “secondary purpose” was defined as follow: “personal health information that is used or disclosed for a purpose other than the diagnosis, treatment or care of a particular patient.”

[40] Kal’s communication with Individual A appears to have been to let them know that Saskatoon Smiles could seek damages over their online reviews. His contacts to Individual B appear to have been to pressure them to sign the release sent by Gerald R. Perkins so they would remove all their online comments about Saskatoon Smiles. In neither case does Kal appear to have made “direct inquiries” to the Complainants, as asserted by Dr. Antosh, to determine the need to make a “referral to another dentist”, or to “get a better understanding of the client’s concerns”.

[41] As stated in the background of this Investigation Report, Gerald R. Perkins also communicated with Individual B to have them remove their online comments regarding Dr. Antosh and Saskatoon Smiles.

[42] In both cases, Dr. Antosh's communications with the Complainants do not appear to have been for the purpose of providing a service that could reasonably be expected to benefit them, nor were the communications related to the primary or original purpose for collecting their personal health information. Rather, the contacts were for Dr. Antosh to manage his online reputation and for marketing, which was not an authorized use of the Complainant's personal health information pursuant to subsections 27(2)(a) or (b) of HIPA. As these services are unrelated to providing a health service for the benefit of the subject individual, I find using the information would be for a secondary purpose.

[43] Regarding secondary purposes, HIPA also authorizes the collection of personal health information for a secondary purpose pursuant to subsection 24(2) of HIPA, which provides as follows:

24(2) A trustee may collect personal health information for a secondary purpose if the secondary purpose is consistent with any of the purposes for which personal health information may be disclosed pursuant to section 27, 28 or 29.

[Emphasis added]

[44] The secondary purpose must be consistent with any of the purposes for which personal health information may be disclosed pursuant to sections 27, 28 or 29. Similarly, as I indicated earlier, subsection 26(2) of HIPA provides that a trustee may use personal health information for a purpose for which the information may be disclosed by the trustee pursuant to section 27, 28 or 29.

[45] Subsection 27(2) of HIPA deals with primary purposes, not secondary ones. Subsection 27(4) of HIPA outlines when a trustee may disclose personal health information in their custody or control for the following secondary purposes:

27(4) A trustee may disclose personal health information in the custody or control of the trustee without the consent of the subject individual in the following cases:

(a) where the trustee believes, on reasonable grounds, that the disclosure will avoid or minimize a danger to the health or safety of any person;

(b) where, in the opinion of the trustee, disclosure is necessary for monitoring, preventing or revealing fraudulent, abusive or dangerous use of publicly funded health services;

(c) where the disclosure is being made to a trustee that is the successor of the trustee that has custody or control of the information, if the trustee makes a reasonable attempt to inform the subject individuals of the disclosure;

(d) to a person who, pursuant to *The Health Care Directives and Substitute Health Care Decision Makers Act, 2015*, is entitled to make a health care decision, as defined in that Act, on behalf of the subject individual, where the personal health information is required to make a health care decision with respect to that individual;

(e) if the subject individual is deceased:

(i) where the disclosure is being made to the personal representative of the subject individual for a purpose related to the administration of the subject individual's estate; or

(ii) where the information relates to circumstances surrounding the death of the subject individual or services recently received by the subject individual, and the disclosure:

(A) is made to a member of the subject individual's immediate family or to anyone else with whom the subject individual had a close personal relationship; and

(B) is made in accordance with established policies and procedures of the trustee, or where the trustee is a health professional, made in accordance with the ethical practices of that profession;

(f) where the disclosure is being made in accordance with section 22 to another trustee or an information management service provider that is a designated archive;

(g) where the disclosure is being made to a standards or quality of care committee established by one or more trustees to study or evaluate health services practice in a health services facility, health region or other health service area that is the responsibility of the trustee, if the committee:

(i) uses the information only for the purpose for which it was disclosed;

- (ii) does not make a further disclosure of the information; and
- (iii) takes reasonable steps to preserve the confidentiality of the information;
- (h) subject to subsection (5), where the disclosure is being made to a health professional body or a prescribed professional body that requires the information for the purposes of carrying out its duties pursuant to an Act with respect to regulating the profession;
- (i) where the disclosure is being made for the purpose of commencing or conducting a proceeding before a court or tribunal or for the purpose of complying with:
 - (i) an order or demand made or subpoena or warrant issued by a court, person or body that has the authority to compel the production of information; or
 - (ii) rules of court that relate to the production of information;
- (j) subject to subsection (6), where the disclosure is being made for the provision of health or social services to the subject individual, if, in the opinion of the trustee, disclosure of the personal health information will clearly benefit the health or well-being of the subject individual, but only where it is not reasonably practicable to obtain consent;
- (k) where the disclosure is being made for the purpose of:
 - (i) obtaining payment for the provision of services to the subject individual; or
 - (ii) planning, delivering, evaluating or monitoring a program of the trustee;
- (l) where the disclosure is permitted pursuant to any Act or regulation;
- (m) where the disclosure is being made to the trustee's legal counsel for the purpose of providing legal services to the trustee;
- (n) in the case of a trustee who controls the operation of a pharmacy as defined in *The Pharmacy and Pharmacy Disciplines Act*, a physician, a dentist or the minister, where the disclosure is being made pursuant to a program to monitor the use of drugs that is authorized by a bylaw made pursuant to *The Medical Profession Act, 1981* and approved by the minister;
- (o) in the case of a trustee who controls the operation of a pharmacy as defined in *The Pharmacy and Pharmacy Disciplines Act*, where the disclosure is being made pursuant to a program to monitor the use of drugs that is authorized by a bylaw made pursuant to *The Pharmacy and Pharmacy Disciplines Act* and approved by the minister;

(p) in prescribed circumstances.

[46] Managing online reputation/marketing is not authorized by subsection 27(4), or sections 28 or 29 of HIPA. Further, none of the prescribed circumstances outlined in *The Health Information Protection Regulations* appear to authorize these practices either.

[47] Based on the preceding, I find, that Dr. Antosh's use of the Complainant's personal health information for the purpose of online reputation/marketing is not authorized by HIPA. Accordingly, when it was used for such purposes, a privacy breach occurred.

[48] I add that regarding the indirect collection and use of personal health information from online sources such as Google reviews, Dr. Antosh (through his lawyer) states as follows:

Nothing in HIPA prevents an organization from gathering or retaining information to protect its own reputation, to defend itself in other regulatory proceedings, or to explore/pursue legal action against other individuals.

[49] Section 25 of HIPA outlines how a trustee is to collect personal health information, including in what circumstances collection does not have to be directly from the subject individual. Subsection 25(1)(e) of HIPA, for example, authorizes collection of personal health information if it is available to the public. Arguably, a Google review, or any other type of online review, is public. An indirect collection, however, must still be related to a "program, activity or service of the trustee that can reasonably be expected to benefit the subject individual" or be for another authorized purpose. HIPA does not authorize the collection of or use of personal health information for a trustee to manage their online reputation or for marketing, so indirect collection is not authorized either in the circumstances. Doing so results in a privacy breach, and did so in this matter.

[50] Regarding my recommendations for Dr. Antosh, I base them on subsections 52(b)(i) and (ii) of HIPA, which provide as follows:

52 The commissioner may:

...

(b) after hearing a trustee, recommend that the trustee:

(i) cease or modify a specified practice of collecting, using or disclosing information that contravenes this Act; and

(ii) destroy collections of personal health information collected in contravention of this Act;

[51] I recommend that upon issuance of this Investigation Report, Dr. Antosh stop collecting personal health information, either directly from individuals or indirectly through other means, for the purposes of managing his or Saskatoon Smiles' online reputation.

[52] I recommend that upon issuance of this Investigation Report, Dr. Antosh stop using personal health information he has collected either directly or indirectly for the purposes of managing his or Saskatoon Smiles' online reputation.

[53] I recommend that within 30 days of the issuance of this Investigation Report, that Dr. Antosh destroy any personal health information he has collected regarding the Complainants, as well as from any other patients, from online sources such as Google reviews which will include what Kal has copies of.

[54] I recommend that within 30 days of the issuance of this Investigation Report that Dr. Antosh provide written apologies to the Complainants for collecting and using their personal health information in ways that were not authorized by HIPA.

IV FINDINGS

[55] I find HIPA is engaged, and so I have jurisdiction.

[56] I find that Dr. Antosh's collection and use of the Complainant's personal health information for the purpose of online reputation or marketing is not authorized by HIPA.

[57] I find that privacy breaches occurred.

V RECOMMENDATIONS

- [58] I recommend that upon issuance of this Investigation Report, Dr. Antosh stop collecting personal health information, either directly from individuals or indirectly through other means, for the purposes of managing his or Saskatoon Smiles' online reputation/marketing.
- [59] I recommend that upon issuance of this Investigation Report, Dr. Antosh stop using personal health information he has collected either directly or indirectly for the purposes of managing his or Saskatoon Smiles' online reputation/marketing.
- [60] I recommend that within 30 days of the issuance of this Investigation Report, that Dr. Antosh destroy any personal health information he has collected regarding the Complainants, as well as from any other patients, from online sources such as Google reviews which will include what Kal has copies of.
- [61] I recommend that within 30 days of the issuance of this Investigation Report that Dr. Antosh provide written apologies to the Complainants for collecting and using their personal health information in ways that were not authorized by HIPA.

Dated at Regina, in the Province of Saskatchewan, this 13th day of September, 2023.

Ronald J. Kruzeniski, KC
Saskatchewan Information and Privacy
Commissioner