



Office of the
Saskatchewan Information
and Privacy Commissioner

INVESTIGATION REPORT 272-2021

Saskatchewan Health Authority

October 5, 2022

Summary:

A patient in Saskatoon sought health care through the TELUS Health MyCare (THMC) app. The patient required lab work so a lab requisition was sent to LifeLabs LP in Saskatoon, an information management service provider for the Saskatchewan Health Authority (SHA). Then, the laboratory report was sent to Southwest Medi-Centre in Swift Current. Southwest Medi-Centre reported the matter to the Commissioner's office, indicating that numerous laboratory reports of patients located in Saskatoon had been sent to the medical center. The SHA explained that its Laboratory Information System (LIS) is only able to send laboratory reports to one location per provider. Since the physician provides care at multiple locations, laboratory reports are sent to the Southwest Medi-Centre. Another problem is that the Southwest Medi-Centre asserted that its physician is often mistaken for a physician with a similar name in Saskatoon. Therefore, it often receives laboratory reports intended for the physician in Saskatoon, not the physician in Swift Current. The Commissioner found that a privacy breach did occur. The Commissioner recommended that the SHA prioritize resolving LIS's inability to accurately send laboratory reports directly to physicians at the location where they have attended to patients. He also recommended that SHA ensure its electronic systems include prompts for its staff to double-check they have selected the correct physician to receive the laboratory report.

I BACKGROUND

- [1] TELUS Health MyCare (THMC) is a virtual healthcare platform. Through an app, physicians are able to interact with patients who seek health care via THMC.

- [2] The Saskatchewan Health Authority (SHA) indicated that a physician (Dr. Bilal Ahmed), who is located in Swift Current, provides health care at the Southwest Medi-Centre. The physician also provides care through THMC.
- [3] The SHA indicated that Dr. Bilal Ahmed provided healthcare to a patient located in Saskatoon through THMC. The patient required lab work. Since the patient was located in Saskatoon, the lab requisition was sent to a LifeLabs LP (LifeLabs) located in Saskatoon. Then, the SHA sent the laboratory report to Southwest Medi-Centre in Swift Current.
- [4] On October 29, 2021, Southwest Medi-Centre sent the laboratory report to my office with the following message:
- Please look into why reports have been being sent to the Southwest Medi-Centre in Swift Current on patient's [sic] from Saskatoon. There have been numerous Covid [sic] reports as well as other lab work that has been received, with Dr. Bilal Ahmed as the ordering or family physician, that have been returned to the [Royal University Hospital] Health Records department as they were trying to help determine where they originated. The electronic lab we get only identifies Saskatoon HR. Thank you.
- [5] Based on a review, the laboratory report appeared to have originated from a LifeLabs location in Saskatoon.
- [6] On November 4, 2021, my office notified the SHA that it would be undertaking an investigation.

II DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

- [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 *The Health Information Protection Act* (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] Based on a review of the laboratory report, I find there is personal health information as defined by subsection 2(m) of HIPA, including personal health number and lab results (information with respect to the physical health of the individual).

[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) the provincial health authority or a health care organization;

[11] The SHA qualifies as a trustee pursuant to subsection 2(t)(ii) of HIPA. LifeLabs is an information management service provider defined by subsections 2(j) and 18 of HIPA of the SHA, as I have found in my office’s [Investigation Report 045-2021 et al.](#)

[12] Third, I must determine if a trustee has custody or control over the personal health information. Since the laboratory report originated from the SHA, then I find that the SHA has custody or control over the personal health information.

[13] Since all three elements are present, HIPA is engaged. I find that I have jurisdiction to investigate this matter.

2. Did a privacy breach occur?

[14] A privacy breach occurs when personal health information is collected, used, or disclosed without authority under HIPA. Therefore, in order to determine if a privacy breach occurred, I need to determine if there was or was not authority under HIPA for the SHA to collect, use, or disclose personal health information.

[15] In this case, I am determining whether the SHA had authority to disclose the lab report to Southwest Medi-Centre. “Disclosure” is not defined in HIPA. However, my office has defined “disclosure” as the exposure of personal health information to a separate entity, not a division or a branch of a trustee not in the custody or control of the information ([Investigation Report 345-2019](#) at paragraph [17]).

[16] The patient who sought care from Dr. Bilal Ahmed through THMC, not at Southwest Medi-Centre. Although Dr. Bilal Ahmed provides care to patients through both THMC and Southwest Medi-Centre, THMC and Southwest Medi-Centre should not be treated interchangeably. They are separate entities with different practices. THMC is a service provided by TELUS Health. TELUS Health is a division of TELUS Communications Inc. TELUS Communications is the wholly owned principal subsidiary of TELUS Corporation. TELUS Corporation is a Canadian multinational publicly traded holding company and conglomerate. My office had requested from TELUS Health a copy of its privacy impact assessment on numerous occasions but did not receive one. However, according to its “[Privacy Commitment](#)”, THMC maintains custody and control over patients’ records. Whether or not this would be appropriate, or the claim is accurate, is not at issue in this investigation. On the other hand, Southwest Medi-Centre is owned by Dr. Hein Stephanus

De Klerk (Dr. De Klerk) and Dr. Adedayo Samuel Bakare (Dr. Bakare). Its Office Manager asserted while no written agreement exists between the owners and the physicians, it is the physicians who work at Southwest Medi-Centre who are responsible for the laboratory reports that are addressed to them. Best practice would suggest that Southwest Medi-Centre establish written agreements between the owners and the physicians to establish custody and/or control over patient records.

- [17] Since the patient sought healthcare from Dr. Bilal Ahmed through the THMC app, then subsections 27(2)(a) or (b) of HIPA would have authorized SHA to disclose the laboratory report back to THMC, not the Southwest Medi-Centre. Subsections 27(2)(a) or 27(2)(b) of HIPA provides:

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;

- [18] Disclosures should only be done on a need-to-know basis pursuant to subsection 23(1) of HIPA:

23(1) A trustee shall collect, use or disclose only the personal health information that is reasonably necessary for the purpose for which it is being collected, used or disclosed.

- [19] The SHA disclosed the patient's laboratory report to Southwest Medi-Centre, not THMC. By sending the laboratory report to Southwest Medi-Centre, the SHA disclosed the patient's personal health information to the staff at Southwest Medi-Centre. The staff do not have a need-to-know the patient's personal health information.

- [20] I find that a privacy breach occurred.

3. Did the SHA respond to this privacy breach properly?

[21] Normally, when my office finds that a privacy breach has occurred, my office will analyze whether the trustee has properly managed the privacy breach in accordance with my office's [*Rules of Procedure*](#):

- Contain the breach (as soon as possible);
- Notified affected individuals (as soon as possible);
- Investigated the breach; and
- Prevented future breaches.

[22] However, in this case, the SHA indicated its position that a privacy breach did not occur. Therefore, it did not take the above steps.

[23] The SHA explained that its laboratory information system (LIS) allows only for laboratory reports to be sent to a single location per provider. If a physician works in multiple locations, laboratory reports will only be sent to the physician's "primary location". In this case, Dr. Bilal Ahmed's "primary location" is Southwest Medi-Centre in Swift Current. Therefore, all laboratory reports would be sent to Dr. Bilal Ahmed's primary location regardless of where the patient sought care.

[24] As described in the background, Dr. Bilal Ahmed attended to a patient located in Saskatoon through the THMC app. The patient's lab work was completed in Saskatoon. However, the laboratory report was sent to Southwest Medi-Centre in Swift Current. The SHA explained that the employee at Southwest Medi-Centre, "did not make the connection the physician worked in a separate location, and incorrectly deemed the report to not belong to that physician". In other words, from the SHA's perspective, staff at Southwest Medi-Centre are responsible for sorting through laboratory reports of patients that do not belong to the medical center. That is unreasonable. The SHA's LIS system should be agile enough to reflect the complexity of our province's health care system, which includes physicians who work at multiple locations. It is not reasonable to expect office managers, medical office assistants and any other employee of medical centers to compensate for the shortcomings

of the LIS system. When Southwest Medi-Centre receives laboratory reports from the SHA in its electronic medical record (EMR), it should be confident that the laboratory reports belong to its patients.

[25] My office contacted the Office Manager at Southwest Medi-Centre who explained the difficulty of managing misdirected faxes. They explained that Dr. Bilal Ahmed is often confused for Dr. Ahmed Belal of Saskatoon. Therefore, Southwest Medi-Centre often receives laboratory reports meant for Dr. Ahmed Belal, but is mistakenly addressed to Dr. Bilal Ahmed. Dr. Ahmed Belal does not work at Southwest Medi-Centre. Dr. Bilal Ahmed does. The Officer Manager explained that it is a very time-consuming activity to return misdirected faxes to the originating source in an already very busy medical centre. Their suggestion was that SHA employees should be paying greater attention to the full names and initials of physicians when sending laboratory reports to ensure accuracy.

[26] My office has been dealing with misdirected faxes since 2010, as summarized in my recently issued [Investigation Report 045-2021 et al.](#) Misdirected faxes within our province's health care system are often a result of the mix-up of physician names. The fact that the SHA's LIS system only allows for laboratory reports to be sent to a single location for physicians who work at multiple locations only compounds the issue.

[27] Section 16 of HIPA imposes a duty upon the SHA to protect against the loss of patients' personal health information:

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:

...

(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;

- [28] I find that the SHA sending patients' personal health information to locations where the patient has never attended is a breach of privacy and contrary to its duty to protect set out in section 16 of HIPA. The SHA informed my office the issue of sending laboratory reports to a single location versus a multi-location is being "evaluated provincially," but that "the provincial decision is quite far down the list of priorities".
- [29] The SHA informed my office that an exception to LIS' "single location per provider" design are laboratory tests performed at the former Regina Qu'Appelle Health Region and Roy Romanow Provincial Laboratory. These laboratory tests can be sent to a physician's primary and/or secondary locations. Also, the SHA informed my office that its Radiology Information System and Picture Archiving and Communications System (RIS/PACS) also only allows a single location per provider for imaging results. SHA said that RIS/PACS does not support multi-location set-ups.
- [30] I find that the SHA has not properly responded to this privacy breach. I recommend that it undertake the four steps listed at paragraph [21], which includes notifying the affected individual of what has occurred.
- [31] I note that the misdirected laboratory report in this case likely represents thousands of misdirected reports that occur daily but are not reported to my office. As part of the SHA's prevention steps, I recommend that SHA prioritize resolving LIS and RIS/PACS' inability to accurately send laboratory reports and imaging results directly to physicians at the location where they have attended to patients. This has a potential to likely prevent thousands of privacy breaches that occur daily but to also ensure timely patient care.
- [32] Regarding physicians with similar names, my office has recommended in [Investigation Report 045-2021 et al.](#) that the SHA provide prompts to staff to double-check that staff have selected the physician's name. The SHA responded to that recommendation by indicating that it will work with eHealth, vendors and other system partners to determine if electronic systems can include a prompt for look-alike and sound alike-provider names. I repeat the same recommendation. I recommend that the SHA ensure that prompts are

added to its electronic systems, including LIS, so that staff are prompted to double-check they have selected the correct physician to receive the laboratory report.

III FINDINGS

[33] I find that I have jurisdiction to investigate this matter.

[34] I find that a privacy breach occurred.

[35] I find that the SHA sending patients' personal health information to locations where the patient has never attended is contrary to its duty to protect set out in section 16 of HIPA.

[36] I find that the SHA has not properly responded to this privacy breach.

IV RECOMMENDATIONS

[37] I recommend that it undertake the four steps listed at paragraph [21], which includes notifying the affected individual of what has occurred.

[38] I recommend that SHA prioritize resolving LIS and RIS/PACS' inability to accurately send laboratory reports and imaging results directly to physicians at the location where they have attended to patients.

[39] I recommend that the SHA ensure that prompts are added to its electronic systems, including LIS, so that staff are prompted to double-check they have selected the correct physician to receive the laboratory report.

Dated at Regina, in the Province of Saskatchewan, this 5th day of October, 2022.

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