Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 027-2018

Dr. Mary Vandergoot

April 5, 2019

Summary: Dr. Mary Vandergoot (Dr. Vandergoot) received a written request from the Applicant for records related to their psychological assessment. Dr. Vandergoot withheld two psychological assessment question booklets. Dr. Vandergoot took the position that the psychological assessment question booklets were not subject to *The Health Information Protection Act* (HIPA). Dr. Vandergoot also raised concerns that release of the records was against copyright laws, professional ethics and the records were proprietary information of a third party. The Commissioner found that HIPA did apply to the records and that Dr. Vandergoot did not properly apply Part V of HIPA in denying access to the requested records. The Commissioner also found that Dr. Vandergoot did not respond to the Applicant's request openly, accurately and completely. The Commissioner recommended Dr. Vandergoot release the psychological assessment question booklets, and develop and implement internal policies for processing and responding to access to information requests. The Commissioner also recommended the Minister of Health consider amendments to HIPA and recommended the Saskatchewan College of Psychologists (the College) also communicate its support of an amendment, if it agreed with the proposed amendment, along with a recommendation for the College to ensure its resources accurately reflect access and privacy obligations under HIPA.

I BACKGROUND

[1] On May 24, 2017, the Applicant submitted a written request to Dr. Mary Vandergoot (Dr. Vandergoot) for their "test results for all exams, the answer I gave and the questions asked."

[2] Dr. Vandergoot responded to the Applicant on June 8, 2017 stating "I am not able or willing to release copies of your test responses as this is against copyright laws and professional ethics. I [sic] you wish to look at your testing responses you can come in to review."

[3] On February 6, 2018, my office received a letter from the Applicant dated January 29, 2018 requesting my office review Dr. Vandergoot's decision to deny access to requested records.

[4] On February 15, 2018, my office notified Dr. Vandergoot and the Applicant of my office's review. In the notification to Dr. Vandergoot, my office requested a submission, the responsive records and the index of records.

[5] On February 17, 2018, Dr. Vandergoot provided the Applicant with their "entire patient file at Vandergoot Psychology Practice Prof. Corp. pertaining to the WCB Mental Health Assessment."

[6] On February 26, 2018, my office followed up with the Applicant to determine if they were satisfied with the records received from Dr. Vandergoot. The Applicant advised that the question booklets relating to two psychological tests, the Minnesota Multiphasic Personality Inventory, 2nd Ed., Restructured Form (MMPI-2-RF) and the Trauma Symptom Inventory, 2nd (TSI-2) were not included in the released records. The Applicant also believed that scores were redacted from a two-page questionnaire that Dr. Vandergoot had released to the Applicant. The Applicant requested my office proceed with the review.

II RECORDS AT ISSUE

[7] Based on a discussion with Dr. Vandergoot regarding the records the Applicant was seeking, Dr. Vandergoot advised that there were no test scores withheld from the two-page questionnaire. Dr. Vandergoot indicated that the fields had a shaded appearance on the original copy that was scanned/copied. The fields would be used to record the total sum of amounts indicated by the Applicant on each page between zero to three, however Dr. Vandergoot stated that the sums had not been recorded. As such, there was no information withheld from these pages.

[8] The only records at issue in this review are the two psychological testing question booklets, the MMPI-2-RF and TSI-2.

III DISCUSSION OF THE ISSUES

1. Does my office have jurisdiction in this matter?

[9] Subsection 2(t)(xii)(A) of *The Health Information Protection Act* (HIPA) provides the following definition of a trustee:

> **2** 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;

[10] Dr. Vandergoot is a psychologist licensed by the Saskatchewan College of Psychologists. As such, Dr. Vandergoot qualifies as a trustee pursuant to subsection 2(t)(xii)(A) of HIPA.

[11] As Dr. Vandergoot qualifies as a trustee for the purposes of HIPA, my office has jurisdiction to conduct this review.

2. Is HIPA engaged in this matter?

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

[13] Dr. Vandergoot's submission regarding her position as to whether or not HIPA applied to this matter stated:

> I have provided you with my file for this client. Test booklets are not part of the clients file, unless the questions and answers appear on the same form and cannot be severed from the responses… Questions and answers on individual items are not interpretable and do not provide clinically relevant information. This is also explained in the information from the "Test Disclosure Policy" (MHS, 2004) adopted by the Canadian Psychological Association (CPA):
>
> > Regarding the release of such material to individuals who claim access rights under [the *Personal Information Protection and Electronic Documents Act*] and provincial legislation, we advise that Test Materials fall outside the definition of "personal information" since materials are not "about" the individual and are thus not releasable to the client…

[14] On the first element, 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;

[15] The Applicant was referred to Dr. Vandergoot by the Saskatchewan Workers' Compensation Board (WCB) for a psychological assessment. Part of that assessment included Dr. Vandergoot collecting the Applicant's responses to the MMPI-2-RF and TSI-2. The responses to both of these psychological tests were released to the Applicant, however the responses alone did not provide the Applicant with any context for what

information was collected. The TSI-2 response sheet recorded 136 responses where the Applicant had circled a number between zero and three in response to the questions indicating a response ranging from never to often. The MMPI-2-RF response sheet recorded 338 responses where the Applicant had shaded in a bubble sheet a response of 'T or F' indicating a response of 'true' or 'false' to each of the questions.

[16] Dr. Vandergoot's legal counsel agreed that the Applicant's responses, which had been released, would likely qualify as personal health information pursuant to HIPA as they are with respect to the Applicant and contain information collected in the course of providing a health service. However, the legal counsel did not agree that the psychological test questions would qualify as personal health information and provided the following response:

> The testing instruments, however, are not "with respect to an individual". They do not concern a specific individual. They were created independent of and long before, [the Applicant]'s request for health services from Dr. Vandergoot. The testing instruments are general and anonymous, while the answer sheets are specific with respect to an individual.
>
> We also respectfully disagree with your conclusion that, because the answers alone do not provide "any context for what the question was", the testing instruments themselves must be PHI. A great deal of information that is appropriately characterized as PHI is not meaningful to the individual without the interpretive assistance of specialists… [The Applicant] will not be able to interpret the "meaning" or significance of the answers he provided to the questions on the testing instruments because he is not a psychologist trained in the interpretation of those test results.
>
> …While the questions are designed to elicit information about the individual being tested, the answers to the specific questions are not in and of themselves indicative of any particular mental status or issue. For example, where an individual answers "true" or "false" to the statement: I sometimes look at gardening magazines", conveys no particular information regarding the individual's mental status…

[17] While Dr. Vandergoot has released the answer sheets to the Applicant, this information alone does not provide any context for what information has been collected about themselves without the correlating questions to the response provided. The definition of personal health information not only includes information with respect to an individual's physical or mental health or health services provided to them; it also includes any

information collected about the individual in the course of providing the health service. Simply because the Applicant will not be able to use the questions and answers to analyze their own mental health status does not mean it does not qualify as the definition of personal health information for the purposes of HIPA. The response that the Applicant provided to each of the questions is still information about themselves that was collected by Dr. Vandergoot when providing the health service.

[18] As noted above, Dr. Vandergoot's legal advisor indicated that how the Applicant responded to a question about reading a magazine would not provide the Applicant with insight into their mental status. However, this is still information about the Applicant and the questions posed would certainly be considered personal in nature and in some cases highly sensitive. Without revealing the exact questions posed in these two test booklets, some of the questions relate to the Applicant's sexual history, suicidal tendencies, alcohol use, social interactions, etc. As such, I find that the MMPI-2-RF and TSI-2 psychological testing question booklets would qualify as personal health information pursuant to subsection 2(m)(iv)(A) of HIPA remains. The first element of the three-part test to determine if HIPA applies is met.

[19] In regards to the second element, I have already established that Dr. Vandergoot qualifies as a trustee pursuant to subsection 2(t)(xii)(A) of HIPA. As such, the second element of the test has been met.

[20] Finally, the third element is to consider whether the trustee in this matter has custody or control of the personal health information at issue. There does not appear to be a disagreement that the MMPI-2-RF and TSI-2 psychological testing booklets are in the custody, or physical possession of Dr. Vandergoot, but how they are stored.

[21] As noted earlier, Dr. Vandergoot's submission provided that because the two psychological test question booklets that are at issue in this review were not located in the Applicant's file, they were not part of the Applicant's file. Some of the questionnaires that Dr. Vandergoot had the Applicant complete contained the questions and answers on the same pages.

[22] In the records released to the Applicant, there were two other psychological testing instruments, the Beck Depression Inventory-II (BDI-II) and the Personality Assessment Screener (PAS). Both of those had the questions and responses appearing on the same pages. In those cases, Dr. Vandergoot appears to have released both the questions and the responses provided by the Applicant. On the BDI-II, the responses were a range of 0 through 3 that the Applicant had circled. On the PAS, the responses were a circled response of F, ST, MT or VT or 'false, slightly true, mainly true or very true'.

[23] Part of the argument provided by Dr. Vandergoot included that the publishers' terms and conditions for using these psychological assessments included requirements that access to the test material be limited to qualified individuals. In order to purchase any of the psychological assessments referred to in this report, the publishers' websites indicate a qualification level that users must possess to purchase the test materials. The qualifications that users must possess in order to purchase any of the assessments includes a range of master's degrees in psychology, education, social work, etc. to a doctorate degree in psychology, education, etc. This may limit who should be interpreting the test but does not change the nature of the information in question which is about assessing a patient.

[24] Simply because the MMPI-RF-2 and TSI-2 questions are in a booklet separate from the answer sheet where the Applicant records their responses does not change the fact that the records are in the custody of Dr. Vandergoot and were used in this case. Where the documents are maintained within Dr. Vandergoot's office is not the issue. Nor should this effect the way that Dr. Vandergoot determines what records or portions of records can be released to the Applicant. As such, Dr. Vandergoot has custody of the personal health information at issue.

[25] As all three elements are present, I find that HIPA is engaged in this matter.

3. Did Dr. Vandergoot properly apply Part V of HIPA in denying access to the Applicant?

[26] Part V of HIPA is entitled "Access of Individual to Personal Health Information." The personal health information at issue in this matter is the Applicant's own personal health information.

[27] Within Part V of HIPA, sections 32 and 38 of HIPA provides:

> **32** Subject to this Part, on making a written request for access, an individual has the right to obtain access to personal health information about himself or herself that is contained in a record in the custody or control of the trustee.
> …
>
> **38**(1) Subject to subsection (2), a trustee may refuse to grant an applicant access to his or her personal health information if:
>
> (a) in the opinion of the trustee, knowledge of the information could reasonably be expected to endanger the mental or physical health or the safety of the applicant or another person;
>
> (b) disclosure of the information would reveal personal health information about another person who has not expressly consented to the disclosure;
>
> (c) disclosure of the information could reasonably be expected to identify a third party, other than another trustee, who supplied the information in confidence under circumstances in which confidentiality was reasonably expected;
> …
>
> (e) the information was collected principally in anticipation of, or for use in, a civil, criminal or quasi-judicial proceeding; or
>
> (f) disclosure of the information could interfere with a lawful investigation or be injurious to the enforcement of an Act or regulation.

[28] In the submission provided to my office, Dr. Vandergoot provided the following arguments regarding the refusal of records:

> …the "Test Disclosure Policy" (MHS, 2004) adopted by the Canadian Psychological Association (CPA):
>
> …Even if Test Materials are considered personal information and thereby releasable, we advise that our Test Materials are proprietary, copyrighted, confidential commercial information, analogous to trade secrets, and we treat and protect them accordingly. Test Materials thus fall under the exception to release and access under PIPEDA and provincial legislation in order to ensure the ongoing

> safeguarding of such material… Other jurisdictions such as in the United States have indicated through the U.S. Department of Health and Human Services (HHS) that the similar "trade secret" exemption under [*Health Insurance Portability and Accountability Act*] is applicable to Testing Material, which makes the application of confidential commercial information exemption claims neither fanciful nor disingenuous in the Canadian context. The test publishing industry considers Test Materials to be confidential information and trade secrets and protects them accordingly…
>
> Upon written request for access and release of Test Materials from your clients under PIPEDA and provincial legislation, the following steps should be followed:
>
> (1) Provide the client with a detailed description/interpretation of the test results and offer to meet with the client.
>
> (2) If the client wants a copy of the item booklet, or response sheet that also contain the items, and/or any materials that contain the scoring criteria, algorithm, model or other test protocols, explain to them in writing that release of these materials is not possible as it will compromise the integrity of the test and goes against the policy of the CPA and test developers. The requested materials are considered confidential commercial information of the test developers… and are therefore exempt from disclosure under PIPEDA or provincial legislation. Release of such materials may breach the conditions of the Test User Agreements, invalidate the assessment, and/or lead to a violation of intellectual property rights;
>
> (3) You may release the client test results provided you are able to remove test items and scoring criteria or other test protocols that may be attached to the results or within the document, which are considered confidential commercial information. The test results must be issued in an understandable form, such as a summary format. We suggest the provision of a detailed description/interpretation of the test results as stated in step 1, which does not release any confidential commercial information, is sufficient for the purposes of PIPEDA and provincial legislation.

[29] Dr. Vandergoot's legal counsel also referenced Alberta Information and Privacy Commissioner Order P2007-002, which addressed psychological records, including testing instruments under Alberta's *Personal Information Protect Act* (PIPA) and provided the following:

> …while the testing instruments and answers were not analyzed in terms of health information… the adjudicator acknowledged the "commercial value" of the testing instruments… she also addressed the concern that the applicant's answers lacked "meaning" without the questions. The Adjudicator observed that while parts of test materials (such as responses) might be "meaningless" to the individual in isolation from the test itself, an individual could render that material meaningful by having a trained professional interpret it. We submit that this analysis applies equally in this case.

[30] I have already addressed in my analysis, that for the purposes of the definition of personal health information found in Saskatchewan's HIPA, both the psychological testing questions and the responses qualify as personal health information. While Alberta has its own private sector privacy law, PIPA, Saskatchewan does not have an equivalent. While Dr. Vandergoot may be subject to the *Personal Information Protection and Electronic Document Act* (PIPEDA), my office does not have any jurisdiction over this piece of legislation and cannot make any determination regarding any arguments raised under PIPEDA.

[31] Additionally, Dr. Vandergoot provided my office with a Saskatchewan College of Psychologists advisory entitled *Release of Psychology Records*. In that Advisory to its membership, the College of Psychologists provides the following:

> **2.2 Test Material**
>
> As per section 11 of the Professional Practice Guidelines (Assessment procedures), and federal and provincial legislation, clients do not have access to test materials unless there is a Court Order (see the Professional Practice Guidelines, section 11.39 – Raw Test Data and Court Proceedings). Federal and provincial privacy legislation provide a statutory definition of what must be released to clients and what may or must be withheld: The Federal Personal Information Protection and Electronic Documents Act (PIPEDA) and Saskatchewan's Health Information Protection Act (HIPA) and other relevant acts provide clients access to all correspondence, notes, records and test results, but specifically exclude confidential commercial information (i.e., test stimuli, items, test questions and test manuals).

[32] Dr. Vandergoot has not referenced any relevant provisions in HIPA for withholding the test materials and instead took the position that the withheld records were 'proprietary, copyrighted, confidential commercial information or analogous to trade secrets.' While *The Freedom of Information and Protection of Privacy Act* (FOIP) and *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) contain exemptions for refusing access to third party information, such as information that qualifies as trade secrets or commercial information, HIPA does not contain a similar provision for refusing access. As such, Dr. Vandergoot cannot rely on these arguments to refuse access as there are no relevant provisions in HIPA.

[33] Other provinces, including Alberta, British Columbia and Quebec, have provincial privacy sector privacy laws that have been deemed substantially similar to PIPEDA. This means that the provinces that have private sector legislation that is deemed substantially similar, the provincial private sector legislation would apply instead of PIPEDA. Until Saskatchewan introduces private sector privacy legislation that may be deemed substantially similar to PIPEDA, there will continue to be gaps in coverage.

[34] Alberta's *Health Information Act* provides an exemption for withholding testing or assessments used by custodians:

> **11**(1) A custodian may refuse to disclose health information to an applicant
> …
>
> (e) if the information relates to
>
> (i) procedures or techniques relating to audits to be conducted or diagnostic tests or assessments to be given,
>
> (ii) details of specific audits to be conducted or of specific tests or assessments to be given, or
>
> (iii) standardized diagnostic tests or assessments used by a custodian, including intelligence tests,
>
> and disclosure of the information could reasonably be expected to prejudice the use or results of particular audits, diagnostic tests or assessments.

[35] The Government of Alberta's *Health Information Act Guidelines and Practices Manual* provides that 'standardized diagnostic tests and assessments' could include psychological, aptitude or intelligence tests, among others.

[36] Some other provinces' health information legislation contains similar provisions to Alberta's as follows:

> **Ontario's *Personal Health Information Protection Act***
>
> Part V Access to Records of Personal Health Information and Correction
>
> 51(1) This Part does not apply to a record that contains

…

(c) raw data from standardized psychological test or assessments;

Newfoundland and Labrador's *Personal Health Information Act*

PART V

ACCESS TO AND CORRECTION OF A RECORD OF PERSONAL HEALTH INFORMATION

Application of Part

51. (1) This Part does not apply to a record that contains raw data from a standardized psychological test or assessment.

Prince Edward Island's *Health Information Act*

4(3) This Act does not apply to

(a) standardized tests, including intelligence tests, or a record that contains raw data from a standardized test or assessment;

(b) testing or auditing procedures or techniques.

[37] Saskatchewan's HIPA does not contain a similar provision. As such, there is not an exception that can be considered in this matter.

[38] Additionally, Dr. Vandergoot's response to the Applicant's request and submission also took the position that the test question booklets could not be released due to 'copyright laws.' In Review Report 052-2017, my office considered the application of the federal *Copyright Act* to information that the government institution had identified as containing third party information:

> [30] Although the term "copyright" is not contemplated under FOIP, the third party has put forward arguments of copyright and that the appraisal firm has copyright of the report. The third party asserts, "...that the intentional and/or forced release of the appraisal will infringe on [third party's] copyright to the integrity of its work in accordance with the Copyright Act, RSC 1985 c.C-42…."
>
> [31] Subsection 32.1(1)(a) of the *Copyright Act* provides:
>
> **32.1**(1) It is not an infringement of copyright for any person

> (a) to disclose, pursuant to the Access to Information Act, a record within the meaning of that Act, or to disclose, pursuant to a like Act of the legislature of a province, like material;
>
> [32] In Saskatchewan, FOIP and The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP) would both constitute, "…a like Act of the legislature of a province…." Whether or not the third party holds copyright of the appraisal is irrelevant because the release of it under FOIP is not an infringement of copyright.

[39] Dr. Vandergoot has taken the position that she believed that HIPA does not apply to the records, and therefore the exclusion under freedom of information laws in the *Copyright Act* would not apply to this matter. However, I have already addressed the issue of the application of HIPA to this matter and found that it does apply, there is no need for me to consider this argument.

[40] I find the same analysis would apply to HIPA, as such release of the records in response to an access to information request pursuant to HIPA would not be an infringement of copyright.

[41] I find that Dr. Vandergoot did not properly apply Part V of HIPA in denying access to the Applicant.

[42] I recommend Dr. Vandergoot develop and implement an internal procedure for ensuring her duty to assist, pursuant to HIPA, is met when responding to written requests for access.

[43] I recommend the Minister of Health consider amending the legislation to exclude raw data from standardized testing.

[44] I recommend, until the legislation changes, the Saskatchewan College of Psychologists amend its resources to accurately reflect trustees' access and privacy obligations under HIPA.

[45] I recommend that if the Saskatchewan College of Psychologists agrees with the legislation being amended, it communicate with the Minister of Health that it support such an amendment.

4. Did Dr. Vandergoot meet the duty to assist the Applicant?

[46] The Applicant submitted a letter to Dr. Vandergoot dated May 24, 2017, requesting "my test results for all exams, the answers I gave and all the questions asked." Dr. Vandergoot responded to the Applicant on June 8, 2017 providing the Applicant with a copy of a 9-page report which contained a summary of his results and a sticky note indicating "I am not able or willing to release copies of your test responses as this is against copyright laws and professional ethics. If you wish to look at your testing responses you can come in to review."

[47] Dr. Vandergoot also indicated in her response to my office that she spoke to the Applicant by phone after receiving the Applicant's request in May to explain that some records could not be released and used the sticky note as a follow up of their telephone conversation. Additionally, after receiving notice of my office's review, Dr. Vandergoot indicted that she had also spoke with the Applicant by phone to again provide an explanation of why the records could not be released. In both instances, Dr. Vandergoot stated that she offered to meet with the Applicant to discuss their results or forward their file to another psychologist that they could discuss their results with.

[48] Subsection 36(1) of HIPA provides the following regarding the requirements of a trustee to respond to a written request for access:

> **36**(1) Within 30 days after receiving a written request for access, a trustee must respond to the request in one of the following ways:
>
> (a) by making the personal health information available for examination and providing a copy, if requested, to the applicant;
>
> (b) by informing the applicant that the information does not exist or cannot be found;

> (c) by refusing the written request for access, in whole or in part, and informing the applicant:
>
> (i) of the refusal and the reasons for the refusal; and
>
> (ii) of the applicant's right to request a review of the refusal pursuant to Part VI;
>
> (d) by transferring the written request for access to another trustee if the personal health information is in the custody or control of the other trustee.

[49] While I acknowledge that Dr. Vandergoot tried to resolve this matter by phone with the Applicant, Dr. Vandergoot's written response to the Applicant was handwritten on a sticky note and did not provide much detail. Section 36 of HIPA, as quoted above, lists the necessary elements for a trustee to include when responding to an Applicant's access to information request, including advising the Applicant of their right to request a review by my office. Additionally, while Dr. Vandergoot provided reasons for the refusal, as I have noted earlier in this report, those reasons were not based on any provisions found in HIPA.

[50] I recommend Dr. Vandergoot develop and implement an internal policy for processing access requests to ensure all necessary elements are included in the written response.

[51] Section 35 of HIPA provides the following regarding responding to a written request for access openly, accurately and completely:

> **35**(1) Subject to section 36 to 38, a trustee shall respond to a written request for access openly, accurately and completely.
>
> (2) On the request of any applicant, a trustee shall:
>
> (a) provide an explanation of any term, code or abbreviation used in the personal health information; or
>
> (b) if the trustee is unable to provide an explanation in accordance with clause (a), refer the applicant to a trustee that is able to provide an explanation.

[52] Initially, Dr. Vandergoot refused access to the Applicant's personal health information, in full, and informed the Applicant they could only review the information at Dr. Vandergoot's office. After my office provided Dr. Vandergoot with notice of my office's

review, Dr. Vandergoot released the patient's records on February 17, 2018. The cover letter to the Applicant stating she was releasing the Applicant's "entire patient file." However, after following up with the Applicant, my office was advised of the two psychological test booklet questions that were not included with the corresponding answer sheets. Dr. Vandergoot failed to identify these portions of the record that were not being released. As Dr. Vandergoot was refusing access to the MMPI-RF-2 and TSI-2 test booklet questions, the true and false and numerical answers recorded on the answer sheets required an explanation. Dr. Vandergoot failed to identify in the response to the Applicant that the question booklets were not included and failed to provide an explanation for each of the answers recorded to the MMPI-RF-2 and TSI-2 answer sheets.

[53] Even if Dr. Vandergoot had provided an explanation, the Applicant still may have requested a review by my office to gain access to the test question booklets, however the trustee still has a duty to assist as outlined in section 35 of HIPA.

[54] In Review Report 125-2017, my office stated:

> [25] Although the Applicant did not explicitly request an explanation, the Applicant's request for amendment was a clear prompt that an explanation could have helped the Applicant understand her personal health information. Neither of SRHA's two responses to the Applicant's amendment requests explained this symbol, or gave much information about SRHA's decisions regarding the Applicant's requests. Doing so may have avoided the review with my office. I find that SRHA did not meet the duty to assist.

[55] I find that Dr. Vandergoot did not respond to the Applicant's access request openly, accurately and completely.

[56] I recommend Dr. Vandergoot develop and implement an internal procedure for ensuring her duty to assist, pursuant to HIPA, is met when responding to written requests for access.

IV FINDINGS

[57] I find that HIPA applies.

[58] I find that Dr. Vandergoot did not properly apply Part V of HIPA in denying access to the Applicant.

[59] I find that Dr. Vandergoot did not respond to the Applicant's access request openly, accurately and completely.

V RECOMMENDATIONS

[60] I recommend Dr. Vandergoot release the withheld records, namely the MMPI-2-RF and the TSI-2 psychological assessment question booklets.

[61] I recommend Dr. Vandergoot develop and implement an internal policy for processing access requests to ensure all necessary elements are included in the written response.

[62] I recommend Dr. Vandergoot develop and implement an internal procedure for ensuring her duty to assist, pursuant to HIPA, is met when responding to written requests for access.

[63] I recommend the Minister of Health consider amending HIPA to exclude raw data from standardized testing.

[64] I recommend, until the legislation changes, the Saskatchewan College of Psychologists amend its resources to accurately reflect trustees' access and privacy obligations under HIPA.

[65] I recommend that if the Saskatchewan College of Psychologists agrees with the legislation being amended, it communicate with the Minister of Health that it support such an amendment.

Dated at Regina, in the Province of Saskatchewan, this 5th day of April, 2019.

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