



REVIEW REPORT 103-2016

Sun Country Regional Health Authority

June 6, 2016

Summary: The Applicant made a request for an amendment of her personal health information to Sun Country Regional Health Authority (Sun Country). The Commissioner found that it was appropriate for Sun Country to make a notation instead of an amendment. He recommended that Sun Country improve the manner in which it make notations and update its policy and procedure.

I BACKGROUND

[1] On April 25, 2016, the Applicant made a written request for an amendment of her personal health information to the Sun Country Regional Health Authority (Sun Country). She had earlier made the request directly to the emergency room; however, she was told to contact the health records department to make the request in writing pursuant to subsection 40(2) of *The Health Information Protection Act* (HIPA).

[2] On April 28, 2016, Sun Country responded to the Applicant and indicated that it would not make the amendment to the Applicant's personal health information. On May 2, 2016, the Applicant requested a review by my office.

[3] On May 4, 2016, my office spoke with Sun Country to confirm that a notation reflecting the request for a correction was made in lieu of the amendment. Sun Country followed up with a letter to the Applicant indicating that the notation was made. The Applicant was not satisfied and requested that my office proceed with the review.

[4] On May 5, 2016, my office provided notification to both the Applicant and Sun Country of our intention to undertake the review.

II RECORDS AT ISSUE

[5] The record at issue is a one page “EMERGENCY/OUTPATIENT RECORD” form. Under the “presenting problem” section, a nurse has recorded that “pt states she was assaulted... in the Medicine Hat Shell gas station...” The Applicant would like Sun County to change “Medicine Hat” to “Swift Current”.

III DISCUSSION OF THE ISSUES

1. Has Sun Country responded appropriately to the Applicant’s request for amendment?

[6] Section 40 of HIPA states:

40(1) An individual who is given access to a record that contains personal health information with respect to himself or herself is entitled:

(a) to request amendment of the personal health information contained in the record if the person believes that there is an error or omission in it; or

(b) if an amendment is requested but not made, to require that a notation to that effect be made in the record.

(2) A request for amendment must be in writing.

(3) Within 30 days after a request for amendment is received, the trustee shall advise the individual in writing that:

(a) the amendment has been made; or

(b) a notation pursuant to clause (1)(b) has been made.

[7] Subsection 40(1)(a) of HIPA provides an individual with the right to request a trustee to amend his/her personal health information where the individual believes there has been

an error or omission. Subsection 40(1)(b) of HIPA requires a trustee to make a notation on file if the correction was requested but not made.

[8] An error is a mistake or something wrong or incorrect. An omission means that something is missing, left out or overlooked.

[9] The following criteria should be considered when an amendment has been requested:

- a. the information at issue must be personal health information;
- b. the information must be inexact, incomplete or ambiguous; and
- c. the amendment cannot be a substitution of opinion.

a. Was the information in question personal health information?

[10] The information in question was collected by Sun Country while the Applicant was receiving treatment in one of its emergency rooms. As such, it qualifies as personal health information pursuant to subsection 2(m)(iv)(A) of HIPA which states:

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

...

(iv) information that is collected:

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

[11] The amendment requested relates to personal health information.

b. Is the personal health information inexact, incomplete or ambiguous?

[12] The statement at issue indicates that the Applicant stated that she was assaulted in Swift Current. The Applicant asserts that she told the nurse that she stopped for gas in Medicine Hat and then again in Swift Current, where she was assaulted.

[13] In its submission, Sun Country indicated that, after receiving the Applicant’s request, the Health Records department spoke with the nurse who wrote the statement on the Emergency/Outpatient Record Form. The nurse verified that “what was documented on

the chart was what [she] heard [the Applicant] say”. This consultation occurred over two months after the record was created. This consultation was noted in the Applicant’s record.

[14] I cannot determine with certainty if the nurse properly captured what the Applicant described on the night she visited the Emergency Room. It is well known that individuals often vary widely in their recollection of the same incident. The notes on the Emergency/Outpatient Record Form and the confirmation by the nurse who collected the personal health information satisfy me that an amendment is not warranted.

[15] Subsection 40(1) indicates that if an amendment is not made, a notation should be made on the record indicating that an amendment was requested. When Sun Country first responded to the Applicant’s request, it made no mention of the notation. It was not until my office received the Applicant’s request for review that it informed her of the notation.

[16] I have reviewed Sun Country’s draft policy and procedure for amendments to personal health information. This document does not reflect subsection 40(1) of HIPA by requiring a notation if an amendment is not made. I recommend that Sun Country change its policy and procedure before it is finalized.

[17] The policy and procedure should also outline what is required when a notation is made. A notation should include the date, who requested the amendment, what the requested amendment was and a signature of the decision maker. The notation should be made on the record near the information in question. Trustees should build ways to incorporate notations in their electronic record systems. Trustees should also record the reason why the notation instead of the amendment was made.

[18] In this case, Sun Country did not make a notation directly on the record. It stated that it notates “by placing the request record and our decision on top of the record in question.” Its draft policy and procedure states: “All amendment requests and notification to the applicant shall be placed in the health record. The documentation must be placed on the record on top of the report in question.”

[19] I have reviewed the record in question. The Emergency/Outpatient Record Form is quite crowded and it would be a challenge to place all of the information required for the notation on this form. Nevertheless, Sun Country should ensure that anyone who reads this record in the future will recognize that a notation has been made by putting a permanent annotation directly on the record which directs the reader to look to other records for more information about the notation.

IV FINDING

[20] I find that Sun Country has not responded appropriately to the Applicant's request for amendment by placing a proper notation on the record.

V RECOMMENDATIONS

[21] I recommend that Sun Country put a notation on the Applicant's record.

[22] I recommend that before Sun Country finalize its policy and procedure on amendments, it modify the policy and procedure to reflect the following:

- If an amendment is not made, a notation should be made pursuant to subsection 40(1)(b) of HIPA;
- A notation should be permanent and obvious; and
- A notation should include the date, who requested the amendment, what the requested amendment was, a signature of the decision maker and the reason why the notation instead of the amendment was made.

Dated at Regina, in the Province of Saskatchewan, this 6th day of June, 2016.

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