



REVIEW REPORT 225-2015

Saskatoon Regional Health Authority

May 16, 2016

Summary:

The Applicant requested access to his care plan from the Saskatoon Regional Health Authority (SRHA). SRHA denied access citing subsection 38(1)(a) of *The Health Information Protection Act* (HIPA). The Applicant requested a review by the Commissioner. SRHA requested the Commissioner discontinue the review as the request was made on grounds that were frivolous, vexatious and not in good faith pursuant to subsections 43(2)(a) and (b) of HIPA. The Commissioner found that the circumstances of the case met the threshold to support a finding that the request was vexatious. The review was discontinued pursuant to subsection 43(2)(a) of HIPA. The Commissioner recommended that if the Applicant ceased his abusive and obnoxious behavior SRHA reconsider the matter.

I BACKGROUND

- [1] On October 20, 2015, the Saskatoon Regional Health Authority (SRHA or the region) received an access to information request from the Applicant requesting a copy of his current care plan.
- [2] On November 23, 2015, SRHA provided a written response to the Applicant indicating that access to the care plan was denied pursuant to subsection 38(1)(a) of *The Health Information Protection Act* (HIPA).
- [3] On December 11, 2015, my office received a Request for Review from the Applicant.

[4] My office notified SRHA and the Applicant of our intention to undertake a review on December 15, 2015.

[5] On January 7, 2016, SRHA requested my office consider subsections 43(2)(a) and (b) of HIPA and dismiss the review as it was requested by the Applicant on grounds that were frivolous, vexatious and not in good faith. On February 5, 2016, my office received SRHA's submission in support of its position.

[6] On February 8, 10, 16, 19, 20 and 22, 2016 my office received written and video submissions from the Applicant for subsections 43(2)(a) and (b) of HIPA.

II RECORDS AT ISSUE

[7] A *care plan* is a patient's individualized plan for care which the health care team follows. A care plan is a living document that is updated quarterly or when the patient's care needs change. Care plans become part of a patient's permanent health record.

[8] The record at issue in this review is the care plan for the Applicant as it existed at the time of his access request on October 20, 2015. There are earlier versions of the care plan and one prepared after the Applicant's access request. However, the care plan at issue in this review is the one dated February 25, 2015. It totals 54 pages.

III DISCUSSION OF THE ISSUES

[9] SRHA is a "trustee" pursuant to subsection 2(t)(ii) of HIPA.

1. Did the Applicant request this review on grounds that are frivolous, vexatious or not in good faith?

[10] Subsections 43(2)(a) and (b) of HIPA provides:

43(2) The commissioner may refuse to conduct a review or may discontinue a review if, in the opinion of the commissioner, the application for review:

(a) is frivolous or vexatious;

(b) is not made in good faith;

...

[11] This provision enables the Commissioner to dismiss or discontinue a review where it appears the access provisions of HIPA are not being utilized appropriately. My office has not considered this provision before. However, my office has issued two previous decisions which considered the equivalent provision in *The Freedom of Information and Protection of Privacy Act* (Review Report 053-2015; Review Report F-2010-002).

[12] Personal health information is one of the most sensitive forms of personal information. It is collected primarily for reasons connected with patient care and is collected under circumstances of vulnerability and trust. Therefore, denying someone the right of review should only be permitted in the most extreme of circumstances and when there is compelling evidence to do so.

[13] On the other hand, HIPA must not become a weapon for disgruntled individuals to use against a trustee for reasons that have nothing to do with the Act. An abuse of the right of access can have serious consequences for the rights of others and for the public interest. By overburdening a trustee, misuse by one person of the right of access can threaten or diminish a legitimate exercise of that same right by others. Such abuse also harms the public interest, since it unnecessarily adds to a trustee's costs of complying with the Act. The burden of establishing that the Applicant's request for review meets the threshold for subsection 43(2)(a) and (b) of HIPA lies with SRHA.

[14] Subsections 43(2)(a) and (b) of HIPA uses the terms, *frivolous*, *vexatious* and *not in good faith*. For purposes of HIPA, these terms mean:

- *Frivolous* is typically associated with matters that are trivial or without merit, lacking a legal or factual basis or legal or factual merit; not serious; not reasonably purposeful; of little weight or importance.
- *Vexatious* means without reasonable or probable cause or excuse. A request is vexatious when the primary purpose of the request is not to gain access to information but to continually or repeatedly harass a trustee or to obstruct or interfere with the trustee's operations. It is usually taken to mean with intent to annoy, harass, embarrass, or cause discomfort. It is a pattern or type of conduct that amounts to an abuse of the right of access.
- *Not made in good faith* means the opposite of "good faith", generally implying or involving actual or constructive fraud, or a design to mislead or deceive, or a neglect or refusal to fulfill some duty or other contractual obligation, not promoted by an honest mistake as to one's rights, but by some sinister motive.

[15] Based on my office's previous reports and decisions in other jurisdictions, the following factors are considered when determining the application of subsections 43(2)(a) and (b) of HIPA:

- *Number of requests:* is the number excessive?
- *Scope and nature of the requests:* are they excessively broad and varied in scope or unusually detailed? Are they identical to or similar to previous requests?
- *Purpose of the requests:* are the requests intended to accomplish some objective other than to gain access? For example, are they made for "nuisance" value, or is the applicant's aim to harass the public body or to break or burden the system?
- *Timing of the requests:* is the timing of the requests connected to the occurrence of some other related event, such as a court tribunal or proceeding?
- *Wording of the requests:* are the requests or subsequent communications in their nature offensive, vulgar, derogatory or contain unfounded allegations?

[16] Depending on the nature of the case, one factor alone or multiple factors in concert with each other can lead to a finding that a request is an abuse of the right of access. Based on

the material and circumstances of this case, I am going to focus on the following two factors: number of requests and the purpose of the requests.

[17] SRHA asserted in its submission that the Applicant's request for a copy of the care plan is not for reasons that support access to information legislation principles. SRHA asserted that the Applicant is requesting it to harass members of his care team and members of SRHA administration. Therefore, access should be denied and the review by my office discontinued.

[18] In a video submission, the Applicant asserted that SRHA's claims are far reaching and he has a right as a patient to access the care plan. The Applicant stated that he has asked for records, like the care plan before and there was complete cooperation by SRHA in providing it. Further, he asserted that it is SRHA that is acting in bad faith.

Number of Requests

[19] I must now consider whether the overall number of access to information requests made by the Applicant to SRHA and the number of requests for review to my office are excessive by reasonable standards. There is no particular number that equates to requests being found to be excessive. It is a measure of what is considered reasonable in the circumstance. Determining whether an Applicant's requests are excessive involves consideration of the volume of requests and the pattern or type of conduct displayed by the Applicant. This must be done on a case-by-case basis, considering all relevant circumstances and not just focusing on a single factor.

[20] Where the volume of requests interferes with the operations of a trustee, it can be argued the requests are excessive. In order to interfere with operations, the volume of requests must obstruct or hinder the range of effectiveness of the trustee's activities.

[21] Other factors to consider include whether the numerous requests are similar, unusually detailed or indicate that the Applicant wishes to revisit an issue over and over again that has already been addressed.

- [22] In this case, the Applicant has made both verbal and written requests for access to information. With regards to the number of verbal requests, SRHA advised that it is difficult to provide an exact number because the verbal requests were made to care providers who documented them in the daily progress notes and flow sheets. The daily progress notes and flow sheets are contained in volumes of charts that are in boxes in separate locations where the Applicant has resided. The verbal requests would have to be manually counted by reading each page of handwriting to see if the Applicant requested any records from the care provider. The volumes of charts span three and half years. Such a task would be extremely difficult and time consuming. However, SRHA was able to manually count the verbal requests made between December 2015 and April 2016 which added up to 15 requests. However, SRHA indicated that some of the Applicant's verbal requests may not have been documented in the daily progress notes and flow sheets.
- [23] With regards to the number of written requests, SRHA indicated that the Applicant made 105 written requests for access between April 2015 and April 2016. These access requests include requests for daily access to nurse's progress notes, flow sheets, care plans, contracts with third party health care providers (e.g. nursing, occupational therapy, physical therapy and behavioral consultant), security reports, reports written by his hospital bed vendor, invoices, names of employees and more.
- [24] SRHA advised that in the last 24 months SRHA received 1627 emails from the Applicant related to complaints about the care he was receiving or about specific staff. This equates to 68 emails a month. Many were also related to access to information requests and privacy complaints.
- [25] SRHA advised that the Applicant has bombarded SRHA with emails to the point that in order to manage, the region has had to create a centralized email inbox just for the Applicant's emails. The purpose of this centralized email inbox is to ensure that individual staff are not harassed by daily emails and to ensure there is a centralized repository of his numerous demands.

[26] Further, SRHA asserted that the Applicant's access requests are repetitive and regular. In response, the unit where he resides assists him with verbal requests, the Health Records Department prepares invoices for associated fees and the Privacy and Access Department sends the Applicant letters. Despite this, I am advised that the Applicant continuously abandons requests (as he refuses to pay the associated fees). This needlessly uses the resources of the unit, Health Records Department, and Privacy and Access Department to the point that it is difficult for the unit, Health Records Department and Privacy and Access Department to conduct other operational work. The unit has 31 beds including the Applicant. The actual resident room is located outside the unit as his past behavior was to demand care when other residents were in need of assistance.

[27] SRHA pointed to section 2 of the Canadian Medical Association's policy, *Principles for the Protection of Patients' Personal Health Information* in support of its position that the right of access must be reasonable and that the Applicant's requests are excessive:

Patients have a general right to control the use and further disclosure of their personal health information, and a right of **reasonable access** to the information contained in their medical record....”

[emphasis added]

[28] Since January 2014, my office has received a number of emails from the Applicant. I have estimated more than 55 emails from him related to quality of care issues, complaints about SRHA staff, privacy complaints and access to information issues. Only the current review file has been opened involving the Applicant. The remainder of the emails did not result in files being opened. The reasons for this are that my office did not have jurisdiction, there was a lack of information or the Applicant did not follow the proper process. In several emails, my office is copied along with other parties such as the Office of the Premier, Ombudsman Saskatchewan, regulatory bodies like the Saskatchewan Registered Nurses Association (SRNA) and various news outlets.

[29] I find that the number of requests is excessive by reasonable standards.

Purpose of the Requests

- [30] When considering an Applicant's purpose for requests I consider if there is an objective other than to gain access to records. For example, multiple requests aimed at harassing or overwhelming a trustee. Again, a review of the requests may indicate a theme, pattern or type of conduct that indicates that access to records is not the intent of the Applicant. In many cases, ascertaining the Applicant's purpose requires the drawing of inferences from behavior as Applicants seldom admit to a purpose other than access.
- [31] SRHA asserted that the Applicant's purpose for requesting access to his care plan is not for reasons that a typical resident would request such access, but rather for the sole purpose of finding and continuing conflict with those that provide or support care to him.
- [32] In one of the Applicant's video submissions to my office, he indicated that "as a patient, I have a patient right to provide input into a plan...my health care is my business and I should know what people are writing about...I am seriously interested in my care". In addition, the Applicant asserted that SRHA hired "psychologists and psychiatrists to write ill-fated reports on me for self-serving purposes after the lawsuits were filed...every patient should know what their care plan consists of." It appears he believes SRHA is afraid he'll share the care plan and asserted that if he does, it is his right to do so. Further, it appears he believes that SRHA has something to hide.
- [33] As part of the Applicant's submission to my office, he provided a remedy order which he has proposed which reads:

...This complaint was mismanaged as there is no basis for [Applicant] to be deprived of his rights, including seeing all care plans, right to check for omissions, appeal to make changes or truth corrections...

Precedence

1. Past care plans provided up to approximately May 27, 2014 by [Employee A] and [Employee B] at [care home] in brown envelope that weeks later vanished
2. In an earlier breach of Privacy the Saskatoon Health Region delivered over 6000 pages of chart notes for a 30 day violation

3. There are no provisions to bar a patient his or her freedom of speech as per The Canadian Charter of Rights.

Remedies

1. Copies of all care plans be made and digitally transported to patient
2. Copies of all chart notes, security notes from March 1st to Present
3. Patient is awarded 100,000 dollars in damages for wrong doing and mental hardship
4. Letter of apology

[34] To be clear, this review does not address any other records other than the care plan dated February 25, 2015. Therefore, I will not be addressing the additional records the Applicant raises in his remedy order.

[35] According to SRHA, the Applicant tries to dictate to nurses and other care providers what to chart and if they do not he calls them “liars”, posts complaints on his Facebook page, or emails complaints to SRHA and copies other parties such as the Office of the Premier, Ombudsman, regulatory bodies like the SRNA and my office. The Applicant also includes various news outlets.

[36] In one of the Applicants video submissions, he indicated that when he saw a version of the care plan previously, it was full of “lies and misrepresentations” and it was undated and unsigned with no collaboration with people including him.

[37] SRHA asserted that when the Applicant was previously provided copies of an earlier version of his care plan, he used it to target specific staff and harass them because they did not document information he wanted them to. Leading up to receiving the care plan, the Applicant wrote the following in two emails dated May 14 and 15, 2014:

What are you busy shredding documents doctoring one up
Care plan from April 1st
Where are resident association minutes u promised last Friday
The lying has to quit

[Employee A] start getting issues done and why is your defiance so obvious as a incompetent manager
Reply to my emails outstanding

...

April 1st Care plan

[Employee A] and [Employee B] you can run but you can't hide

- [38] With regards to another care plan, the Applicant sent an email (dated June 17, 2014) to SRHA senior management, various news outlets and the Office of the Premier stating:

Who wrote up the undated, unsigned care plan, with zero input or consent from me. Same hand writing. Would like to meet author. Where is care plan from April 1st, 2014?

- [39] SRHA provided numerous examples of the Applicant targeting specific staff related to his care plan including a copy of an email sent by the Applicant dated July 2, 2014. The email was directed to SRHA, the Office of the Premier, Ombudsman Saskatchewan, regulatory bodies like the SRNA and various news outlets. The email subject line states: "Abuse = Empowerment of [RN A] and [LPN A]". The email states:

Their [sic] we will show him attitude of [RN A] and [LPN A] left me with a call bell out of reach, **failing to check on me after abandonment contrary to care plan that clearly states I will be checked on every half hour** a major safety act of negligence.

Since security presence of these 2 nurses, they think they have some phantom insurance policy

Both refused to chart my care concerns in chart notes, as for accurate records, they prefer omissions.

A patient knows best

[Employee A] when are you going to reply to all my emails, receive copies of security notes as part of chart notes, this lack of reply confirms you are incompetent and hiding from the truth which puts [Employee B] in same category. They are welcome to defend with full disclosure.

Please share on facebook and LinkedIn

[emphasis added]

[40] The Applicant sent many emails targeting registered nurse [RN A] including one dated June 17, 2014 in which the Applicant lists twenty issues he has with the RN. This email also went to various SRHA employees including senior management along with various news outlets and the Office of the Premier. The Applicant stated in part that:

...

13. When [RN A] returns with [LPN B], I am in rough shape. **Ask for BP readings.** First reading 173/105 and about 10 minutes later at 188/105. **Asked to be recorded in chart, [RN A] and [LPN B] agree and acknowledge will be done.** (Normal around 111/68) From memory. Asked for printed record. Printed, left on small counter. This morning records mysteriously missing.

...

19. **Morning nurse advises no record of 180+ BP reading.** There should be a total of at least 5-6 readings. One before 2am at 2am 10 minutes later, half hour later, 20 minutes later. Only 3 readings in chart.

20. **[RN A] destroyed by [sic] records while sleeping, omitted the truth in charts, orchestrated a criminal cover-up, conducted self with negligence. This is not the first complaint against her.**

[emphasis added]

[41] As indicated by SRHA, in addition to mass emails, the Applicant also utilizes social media to target staff. Examples include Facebook, Twitter and LinkedIn. At the time of the issuance of this Review Report, the Applicant had 991 followers on Facebook, 59 followers on Twitter and over 500 connections on LinkedIn. However, the Applicant's main tool is Facebook. My office checked the Applicant's Facebook page and it did not appear to have any privacy settings therefore it could be viewed by anyone. My office also saw examples of postings the Applicant made regarding specific SRHA staff.

[42] SRHA provided my office with examples of various Facebook posts. SRHA indicates that the Applicant utilizes this tool to target staff. For example, the Applicant targeted a manager by posting pictures of him with derogatory comments on Facebook several times. The posts would include the manager's contact information and he received phone calls from individuals upset with him. I am advised that the harassment got so bad that the manager laid a complaint with the local police service along with seven other SRHA

employees. In addition, Facebook took down some of the more offensive posts on three occasions. One posting from November 9, 2014 stated:

[Employee C] is hiding and scared to be intervening advocate at his sit in office job, call [work phone number] and ask him why I am being set up to die sooner...

[43] In another Facebook posting dated March 6, 2015, the Applicant posted three videos on his page outlining what an SRHA employee failed to do. He also posted a picture of her which he got from her personal Facebook account. The posting stated:

...Earlier today I posted 3 videos indicating how [Employee D] a non caregiver (a clerk secretary) made sure I got no help for 2 hours. Forcing me to piss the bed, left to rot in it for 40 minutes despite 20+ calls for help. It is even more shocking her father passed away from [medical condition] as per video on Facebook and participates in elder abuse in a care home against [medical condition] patient. In video I have asked Saskatoon Health Region to remove from her position click link [link to his video]

She can be reach [sic] at [work email address] or [work phone number] at work if you have any questions

Sorry for your loss

Picture from social media FB

[44] Based on the information before me, there appears to be a pattern to the Applicant's behavior as his targeting of SRHA staff has consistently occurred from 2014 through to 2016. In a recent example, the Applicant sent an email to a manager on February 13, 2016. The email subject line read: "This is the cow fucking with my care". The Applicant attached a link to a contracted service provider's professional website. The service provider was an RN providing services to the Applicant through a contracted third party service provider. On the same date, the Applicant filed a complaint with the SRNA about the service provider stating in part that she:

1. Continually lies.
2. ...
 - a. When rolling to the right she rests her gut and ham arms on me like I am her body support
 - ...

9. When police came to get a written complaint as I have filed a criminal complaint for assault against her...

...

Every day caregivers are injured by plus size patients, but a plus size caregiver is dangerous caring for [medical condition] patient like me.

[45] On the same date, the Applicant posted a picture of the RN on Facebook along with his above written complaint about her to the SRNA. The Facebook post stated:

Some sad and bad news. My care has been so good until they management assigned what appears to be a non practicing RN nurse to my care. I am afraid of her and she stresses the hell out of me. They keep forcing her on me, why? HELP

[46] Several comments were posted by the Applicant's followers on Facebook including one individual who posted two comments which stated "Want me to set her straight [Applicant]? I would you know" and "What a b---- That is totally unacceptable." It should be noted that no criminal charges against the RN resulted from the Applicant's complaint to the police.

[47] In the materials provided by SRHA, it also appeared that the Applicant utilizes Facebook to get his followers involved in his ongoing issues with the care team at SRHA. The Applicant sent a mass email on June 5, 2014 to various SRHA employees including senior management, various news outlets, regulatory bodies such as the Saskatchewan Association of Licensed Practical Nurses (SALPN), the Office of the Premier and others. The email subject line states: "Can't Reach Call Bell #2 [RN B]". The email states:

...

Refused to brush teeth (2 minutes) yet Aid [Employee E] in room 5 minutes doing nothing with 3 visitors

Twice within one hour

...

[Employee A] refuses to provide requested info on facility shower chair

[Employee A] refuses to be competent

If no [sic] comes in 15 minutes will do Facebook posting seeking help

[48] In a number of Facebook posts, the Applicant seeks the help of his followers by asking them to make phone calls to staff. In a post dated November 22, 2014 the Applicant stated:

[LPN C] and [Employee F] have refused to suction me and refused to leave me comfortable position when only a button has to be pushed on 30000 dollar Hill-Rom bed. Management turns a blind eye. [LPN C] and [Employee F] work as a team.

[LPN C] knows refusal of suction prevents me from the talking

Call [care home] [care home phone number] and ask WTF is wrong with these two bulllys

Ask for Manager in charge

Need help

[49] In response to the above post, one of the Applicant's followers posted:

Just talked to [Employee G] on North 2, she says she will pass the info along. Heard a distinct change in her tone as soon as she heard your name. Hope you get suctioned.

[50] The Applicant also threatens to call local police in his mass emails and Facebook posts. The Applicant sent a mass email on September 4, 2015 to SRHA senior management. The email subject line stated: "[Contracted company] night shift I am scared". The email states:

No name tags

Refused to drain water from secondary circuit and quad connector

Might call 911

...

[Employee H] the facility is great, right but care has been fluffed and now degenerated to similar shame of [care home]

If your words are fluffed, lets see the contract if things are that great lets see the [contract company] contract

...

I demand a copy of the [contracted company] contract in full disclosure....

...

We will seek a court order application if not cooperative

[emphasis added]

[51] In a Facebook post dated October 31, 2014 the Applicant stated:

[Care home] Saskatoon Health Region
[Medical condition] patient needs help [LPN C] ignoring my pleas for help and not allowing any else to help

Calling Police 911 for help...

[52] SRHA asserted that during the twelve months that the Applicant resided at one of its care homes the facility had to accommodate three staff members work so they did not have to provide care to or have contact with the Applicant. Two of the accommodations were approved by the Worker's Compensation Board. Further, the sick day usage went up substantially during the year the Applicant was a resident and decreased 356 hours the first month following his transfer. SRHA asserted that it has had employees that have left the region and others that have taken demotions as a result of the stress experienced from the Applicants targeted harassment. At the current time, SRHA is utilizing a number of contracted third party service providers to deliver care to the Applicant in order to protect its employees from further harassment. I note that the Applicant now appears to be targeting the staff of these contracted companies. SRHA has indicated that it is concerned it will lose these contracted service providers as a result.

[53] The Applicant demonstrates a pattern of making unfounded allegations against specific SRHA employees. On March 14, 2016, the Applicant targeted an SRHA employee that has a medical condition that can cause redness of the skin. The Applicant sent a mass email to the Minister of Health, SRHA's Chief Executive Officer, SRHA's Director of Human Resources, two vice presidents, a site leader and two managers accusing the employee of having a substance abuse problem. The email subject line stated: "[Employee I] – Maybe Unfit as Manager with Drinking Problem". The email also included a picture of a man drinking two alcoholic beverages at the same time. The email stated:

Alcoholism and a red nose

There is generally a relation between red noses and a drinking problem
Because my current care by him has me very concerned and scared
[Employee I] appears to have these visual symptoms very day
There are so many confirmation articles on internet plus my live observational
experiences
**Request immediate blood test and weekly for 6 weeks and continue random
checks**
Are there liability issues I should be concerned?
I think he needs help.

[emphasis added]

[54] On April 24, 2016, the Applicant continued to target the employee by posting a photo of him on Facebook along with a post about medical negligence. Further, on April 26, 2016, the Applicant went further and again posted a picture of the employee. The Applicant included a copy of a detailed complaint totaling seven pages about the employee that he had sent to the regulatory body that oversees registered nurses, the SRNA. The following is an exert from the SRNA complaint which appeared on Facebook:

Part 1

...

The SNRA [sic] should seriously consider [Employee I] revocation of his membership to SRNA for the following reasons:

He is not a person of good character

...

4. **He may have a substance abuse problem as is in a facial red nose and face** as an indication of alcoholism.

Part 2

...

4. **He has and is participating in conspired plan to encourage chart note omissions by never allowing patient to proof read the next day.** Supporting documentation to support. He abuses his authority. My records are not accurate and falsified. The Patient is definitely unfairly treated.

...

11. **He relies on outdated care plans prepared by non-knowledgeable lying co-employees** with no knowledge of [medical condition] or my unique conditions. Patient fears that **[Employee I] has facilitated the destruction of all old care plans. There is motive to eliminate damming [sic] information that helps Plaintiff Patient. Why is he not letting Patient see care plans?** He may site privacy; someone could get hurt which is such a load of fabricated nitric oxide crap.

[emphasis added]

[55] The Applicant continued to target this employee. On April 29, 2016, the Applicant copied my office in an email to the employee, numerous other staff at SRHA, Saskatchewan Ombudsman, Saskatchewan Human Rights Commission and others. The email includes an image of a bull defecating. The email stated:

[Employee I]

By you placing a gag order on my doctor by **ordering him not to share contents of chart notes** appears to be a major civil, professional, medical and discriminatory violation of patients rights. **There is no verification, justification but a bull shit lame fabricated lie by you to keep me in the dark and not allow me to correct the lies and omissions.** Your lying skills are so obvious as you get caught every time. Do you lie to every one?

It does not allow for the type of openness for patient to communicate with his doctor for bests care

Your actions of suppression, segregation, secrecy interference and willful blindness is criminal conduct by you

This email constitutes is a formal complaint to agencies named.

Your conduct is full of hypocrisy and swiss cheese.

Please start treating with respect and no patient rights stripped from me
What are you hiding from me?

When is SHR going to confirm for patient/me safety that you may a substance abuse secret....

[emphasis added]

[56] SRHA has indicated that it has had to rotate managers that oversee the Applicant's care in order to limit the targeted harassment they experience. At the time of the above emails and postings, it was this manager's turn in the rotation. One of the managers previously involved left for a lower level position due to the targeted harassment of the Applicant.

[57] Part of the issue with the above email is that it does not request that correction of personal health information be addressed. It is excessive, rolls into other purposes and is

offensive. There is a process for requesting correction of personal health information which the Applicant has not followed. This is a consistent pattern with the Applicant that my office has also experienced. The correct process for access and review requests, privacy complaints and correction requests has been explained to the Applicant but he continues to not follow it. During this review, my office requested that the Applicant cease communications with SRHA on matters engaged in this review. However, he has not followed that instruction.

[58] Individuals have the ability to post reviews on social media. The health care system is not immune to such reviews. However, when an individual targets specific employees, posts pictures, attempts to get others to contact the employees, makes unfounded allegations about them and makes derogatory remarks about their appearance this crosses the line into targeted harassment. In many of the posts and emails sent by the Applicant, he references records, his access to them and what should be in them.

[59] SRHA estimates that the Applicant has filed more than 30 complaints about nurses with the SRNA. Most of them have been closed with at least one outstanding. SRHA indicated that for all of the complaints that have been concluded, the SRNA determined the complaints were unfounded. SRHA indicated in its submission that the Applicant lists many individuals in his complaints and the SRNA must interview all those that he has named; creating embarrassment and humiliation for the nurse that he has laid a complaint about. In the above publicly posted complaint to the SRNA about Employee I, the Applicant listed several colleagues of his as individuals of interest for the SRNA.

[60] The Applicant has also filed three lawsuits against SRHA and a number of physicians and nurses. SRHA advised that one of the lawsuits was dismissed by the court in 2015 as an abuse of process. My office received a copy of the court decision from SRHA. Based on a review of that decision, the Applicant issued a statement of claim suing more than 28 defendants including physicians and nurses at SRHA alleging negligence, conspiracy, battery and intimidation. In the decision, Justice Keene stated:

[52]...

- I have purposely set out in Appendix A what I believe to be salient and important parts of the affidavit evidence provided. Such a summary speaks for itself and directs the court to the inevitable conclusion that this claim is scandalous, frivolous and vexatious.

[53]...Accordingly, finding as I have, I grant the application to strike the plaintiff's entire claim on the above basis.

...

[55] Counsel argues that when stripped away of what has been pled the plaintiff's true motivation in this law suit is to somehow bully the defendants into allowing him to stay indefinitely at St. Paul's...This in itself, is inappropriate and an abuse of the process of this Court....

[61] According to SRHA, the Applicant has filed complaints with a number of organizations over the three and half years it has been providing care to the Applicant:

- SRNA (30 complaints unfounded);
- SALPN (4 complaints unfounded);
- Registered Psychiatric Nurses Association of Saskatchewan (1 complaint unfounded);
- Saskatchewan College of Psychologists (2 complaints – 1 still open, 1 closed unfounded);
- Saskatchewan Society of Occupational Therapists (1 complaint unfounded);
- Saskatchewan Human Rights Commission (copied in complaints on 2 occasions since April 2015 – SRHA has not been contacted so unsure of status);
- Provincial Occupational Health and Safety (2 complaints since April 2015 - unfounded);
- Saskatchewan Ombudsman (copied in complaints on 5 occasions since April 2015 – SRHA has not been contacted so unsure of status);

- Municipal Police (10 complaints since April 2014 (includes calls to 911) – unfounded); and
- Mobile Crisis Services (2 calls – may be more but began coming only to support SRHA staff).

[62] The rights afforded the public to access under HIPA are accompanied by concomitant responsibilities on the part of Applicants. One of these responsibilities is working in tandem with the trustee to further the purposes of the Act. Actions, on the part of an Applicant that frustrate this approach can be said to be an abuse of this process. Examples include overwhelming a trustee with access requests, not working constructively to resolve issues, making repeated unfounded accusations and being uncooperative or harassing to those who are attempting to assist.

[63] Offensive or intimidating conduct or comments by Applicants is unwarranted and harmful. They can also suggest that an Applicant's objectives are not legitimately about access to records. Offensive or intimidating content in an Applicant's communications should be addressed as a respectful workplace issue. Requiring employees to be subjected to and to respond to offensive, intimidating, threatening, insulting conduct or comments can have a detrimental effect on well-being. Further, the use of derogatory or vulgar language, or the making of unfounded accusations has been held to constitute an abuse of process in many court and tribunal cases across the country. In such cases the persons using such language have been denied the exercise of what would otherwise be their rights, or have been denied remedies. In some cases, the decision-maker has required undertakings that the person conduct themselves appropriately, or has awarded costs against them (Alberta IPC Order F2015-16).

[64] Based on the materials provided to my office from SRHA and the Applicant, there appears to be a consistent pattern of behavior beginning in 2014. In my view, the Applicant's objective is to target staff due to dissatisfaction with care he is receiving. He may also be attempting to further his lawsuits and various complaints he has filed. He uses social media and mass emails to achieve this purpose. He has made a number of unfounded allegations against numerous SRHA staff which seems to be triggered after

reviewing records received from access to information requests. These personal attacks are done in a very public and offensive way which can have detrimental consequences.

[65] In conclusion, considering all that is before me, I find that the Applicant's review request is vexatious.

IV FINDING

[66] I find that the review under consideration has been initiated on vexatious grounds pursuant to subsection 43(2)(a) of HIPA. I therefore discontinue this review based on the Applicant's abusive and obnoxious behavior leading up to the issuance of this Review Report.

V RECOMMENDATION

[67] I recommend that if the Applicant ceases his abusive and obnoxious behavior, at that time, and only at that time, SRHA reconsider this matter.

Dated at Regina, in the Province of Saskatchewan, this 16th day of May, 2016.

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