



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 026-2025

College of Registered Nurses of Saskatchewan

August 12, 2025

Summary: The Applicant submitted an access to information request to the College of Registered Nurses of Saskatchewan (CRNS). CRNS responded to the Applicant advising that, pursuant to section 36(1)(b) (Response to written request) of *The Health Information Protection Act*, the requested records do not exist. The Commissioner found that CRNS conducted a reasonable search for records and recommended it take no further action.

I BACKGROUND

[1] On November 5, 2024, the College of Registered Nurses of Saskatchewan (CRNS) received an access to information request from the Applicant seeking the following records for the time period of “the year 2019”:

I want to see all records that show that the SRNA (trustee) verified the accuracy of personal health information about me ([name of Applicant]¹) that the SRNA collected from RN [Name of Nurse] in a statement [Name of Nurse] made on pages 49 and 50 in an SRNA Report dated November 22, 2019. I want to know if the SRNA verified the accuracy of personal health information about me that they collected from RN [Name of Nurse].

¹ The words in square brackets are OIPC’s amendments to preserve the identity of the Applicant or third-party individuals.

[2] On November 13, 2024, CRNS responded to the Applicant advising that “in compliance with section 36(1)(b) of *The Health Information Protection Act [HIPA]*, we write to advise you that **the information you seek does not exist**” and stated as follows:

By way for further information:

1. The records you request (records verifying accuracy of an investigated nurse’s statement) do not constitute “personal health information” as defined by section 2(m) of *HIPA*.
2. Since the complaint against the RNs did not relate to *your* care, or *you* as a patient, the SRNA/CRNS did not seek or collect any “personal health information” regarding yourself during its investigation.
3. In the context of the CRNS’ investigation into your complaints against multiple RNs based on *your husband’s* care as a patient, *whether* you made the statement as indicated by [Name of Nurse], and the *accuracy* of the information, was not investigated or verified by the SRNA/CRNS since it was not necessary or relevant to the issues before the Investigation Committee. As such, even if such a statement could be considered “personal health information” per *HIPA*, that was “collected” by the CRNS, which we suggest it is not, the CRNS did not fail to take **reasonable** steps” pursuant to section 19 of *HIPA*.

[3] On November 25, 2024, the Applicant provided the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) with documentation related to their November 5, 2024 access request.

[4] Between December 23, 2024 and January 30, 2025, there was communication between OIPC and the Applicant to address multiple concerns raised by the Applicant. OIPC confirmed that of the Applicant’s concerns, the only reviewable issue OIPC could proceed with would be CRNS’ search efforts. On February 2, 2025, the Applicant agreed to proceed with a review on this basis.

[5] On March 6, 2025, OIPC notified both CRNS and the Applicant that a review would proceed.

[6] On March 10, 2025, OIPC received the Applicant’s submission.

- [7] On March 25, 2025, CRNS provided OIPC with its submission and supporting documentation. With permission from CRNS and in an effort to seek early resolution, OIPC shared the CRNS submission and attached documentation with the Applicant on April 28, 2025. The Applicant responded that they were not satisfied on the same date.

II RECORDS AT ISSUE

- [8] There are no records at issue as this is a review of search efforts by CRNS.

III DISCUSSION OF THE ISSUES

1. Does OIPC have jurisdiction?

- [9] For *The Health Information Protection Act*² (HIPA) to be engaged, three elements must be present: (1) personal health information, (2) a trustee, and (3) the personal health information is in the custody or control of the trustee.³

- [10] For the first element, the Applicant's request is for records verifying a statement made about them in a CRNS investigation report. Based on information provided to OIPC, this statement alleges that the Applicant has a specified medical condition. CRNS indicated that this statement is "the applicant's personal health information... that was mentioned by the RN..." This statement would qualify as personal health information pursuant to section 2(1)(m)(i) of HIPA, which states:

2(1) In this Act:

...

² *The Health Information Protection Act*, SS 1990-91, c. H-0.021, as amended.

³ See OIPC [Investigation Report 193-2024, 043-2025](#) at paragraph [17].

(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;

[11] For the second element, CRNS qualifies as a “trustee” pursuant to section 2(1)(t)(xiii) of *HIPA*.⁴

[12] For the third element, this office must determine whether the trustee had custody or control of the personal health information at issue. “Custody” is the physical possession of a record by a trustee combined with a measure of control. “Control” connotes authority. Personal health information is under the control of a trustee when the trustee has the authority to manage the information, including restricting, regulating and administering its use, disclosure or disposition. Custody is not a requirement for control to be present.⁵

[13] The alleged statement about the Applicant’s personal health information was documented in the *SRNA Report*.⁶ From information provided by CRNS, the source of the statement in that report was from an audio recording that CRNS has in its record holdings.⁷ Therefore, there will be a finding that CRNS has custody or control of the personal health information.

⁴ In OIPC [Review Report 258-2024](#) involving CRNS, it was concluded at paragraph [25] that CRNS qualifies as a “trustee” pursuant to section 2(1)(t)(xiii) of *HIPA*.

⁵ See OIPC [Investigation Report 306-2019](#) at paragraphs [15] to [16].

⁶ Section 3(1) of *The Registered Nurses Act, 1988* provides that the Saskatchewan Registered Nurses Association (SRNA) is continued as a corporation to be known as the College of Registered Nurses of Saskatchewan (CRNS). As such, while the report is called the *SRNA Report*, SRNA in this context refers to the present CRNS.

⁷ The audio recording is apparently from an interview with the Registered Nurse, which CRNS stated occurred on July 31, 2019. CRNS stated, “To summarize, it [the comment] was first stated in the interview and then mentioned once in the written report.”

- [14] As all three elements are present, OIPC finds that *HIPA* is engaged. As there are reviewable grounds as noted in the notice of review, OIPC has jurisdiction and is undertaking a review of this matter pursuant to PART VI of *HIPA*.

2. Did CRNS conduct a reasonable search for records?

- [15] Section 35(1) of *HIPA* requires a trustee to respond to an applicant's access to information request openly, accurately and completely:

35(1) Subject to sections 36 to 38, a trustee shall respond to a written request for access openly, accurately and completely.

- [16] This means that trustees should make reasonable efforts to not only identify and seek records responsive to an applicant's access to information request, but to explain the steps in the process. The threshold to be met is one of "reasonableness". In other words, it is not a standard of perfection but rather what a fair and rational person would expect to be done or consider acceptable. A reasonable search is one in which an employee, experienced in the subject matter of the records, expends a reasonable effort to locate records which are reasonably related to the access request. A reasonable effort is the level of effort you would expect of any fair, sensible person who is searching areas where records are likely to be stored. What is reasonable depends on the request and related circumstances.⁸

- [17] There are two circumstances where a trustee can validly claim the non-existence of a record pursuant to *HIPA*. The first circumstance is if a record exists, but it is not in the custody or control of the trustee to whom the request was made. Pursuant to section 36(1)(d) of *HIPA*, access requests can be responded to by transferring the request to another trustee if the personal health information is in the custody or control of the other trustee. This circumstance is irrelevant in this file as CRNS did not transfer the request pursuant to section 36(1)(d) of *HIPA*.

⁸ See OIPC [Review Report 290-2021, 023-2022](#) at paragraphs [28] and [29].

[18] The second circumstance that validates a claim of the non-existence of records is if a reasonable search failed to produce records. The threshold of “reasonableness” is met when the trustee expends a level of effort expected of any fair, sensible person searching areas where records are likely to be stored. A trustee may resort to the following avenues in its effort to search for records:⁹

- For personal information or personal health information requests – explain how the individual is involved with the trustee (i.e., client, employee, former employee, etc.) and why certain departments/divisions/branches were included in the search.
- For general requests – tie the subject matter of the request to the departments/divisions/branches included in the search. In other words, explain why certain areas were searched and not others.
- Identify the employee(s) involved in the search and explain how the employee(s) is experienced in the subject matter.
- Explain how the records management system is organized (both paper & electronic) in the departments/divisions/branches included in the search.
- Describe how records are classified within the records management system. For example, are the records classified by alphabet, year, function, subject.
- Consider providing a copy of your organization’s record schedule and screen shots of the electronic directory (folders & subfolders).
- If the record has been destroyed, provide copies of record schedules and/or destruction certificates.
- Explain how you have considered records stored off-site.
- Explain how records that may be in the possession or a third party but in the trustee’s control have been searched such as a contractor or information management service provider.
- Explain how a search of mobile electronic devices was conducted (i.e., laptops, smart phones, cell phones, tablets).

⁹ See OIPC [Review Report 048-2025](#) at paragraph [30].

- Explain which folders within the records management system were searched and how these folders link back to the subject matter requested. For electronic folders – indicate what key terms were used to search if applicable.
- Indicate the calendar dates each employee searched.
- Indicate how long the search took for each employee.
- Indicate what the results were for each employee's search.
- Consider having the employee that is searching provide an affidavit to support the position that no record exists or to support the details provided.¹⁰

[19] The Applicant provided OIPC with a portion of the *SRNA Report*. On one of these pages is the statement that summarizes what the Registered Nurse (RN) stated about the Applicant.¹¹ Based on the statement contained in the *SRNA Report*, it appears that the RN attributed the source of the notation in question to something the Applicant stated in the presence of the RN such that the RN was only repeating what she had heard.

[20] Where the claim is that records do not exist, *HIPA* does not require that the trustee prove with absolute certainty that the records do not exist. OIPC will consider reasonable explanations for why a record would not exist, but a trustee still needs to demonstrate that it made reasonable efforts to search.

[21] CRNS provided this office with screenshots of its search results to demonstrate that it searched its record holdings for instances where it may have documents connected to the statement about the Applicant. CRNS used a relevant and unique keyword when it did so, which surely assisted in this search. The results of the search identified copies of the *SRNA Report* and an audio recording on the interview from July 31, 2019. CRNS noted that the

¹⁰ On the issue of affidavits, see OIPC's resource, [*Using Affidavits in a Review with the IPC*](#).

¹¹ The Applicant provided OIPC with copies of the pages of the *SRNA Report* on February 28, 2025.

statement about the Applicant “was stated first in the interview and then mentioned once in the written report.”¹²

[22] This office has previously found that while an applicant may believe that a statement does not reflect the truth, if the statement was the professional’s impressions or understanding of what was said to them, then it is their impressions or understanding.¹³ In this matter, the record reflects the RN’s understanding of what they were told by the Applicant at the time and is, therefore, not subject to correction.

[23] Based on arguments and evidence provided, there will be a finding that CRNS’ search was reasonable. There will also be a recommendation that it take no further action regarding search.

[24] This office closes this report with one final observation and *proviso*. The subject matter of this application, and four prior applications with this office, all flow from the very same underlying issue that was the subject matter of private litigation brought by the Applicant in 2021. At that time, the Saskatchewan Queen’s Bench noted the Applicant’s petition in the civil lawsuit to be frivolous and vexatious. The Queen’s Bench Justice, Justice Layh, refused the Applicant’s petition to amend the nullity which was the lawsuit – the defendants of the lawsuit involving the very same individuals as the present matter. Justice Layh found the Applicant to have abused the court process in a vain attempt at vindication.¹⁴

[25] While this office would never think to deny the Applicant a valid opportunity to file an access to information request, the time has come to notify the Applicant of the following: if the Applicant chooses to file any further access requests with this office *in connection to the same underlying issue* as the present access request (and all the others in the past), this

¹² Any other instances of records found in the keyword search relate to correspondence between the Applicant and CRNS or between OIPC and CRNS as it relates to this review.

¹³ See OIPC [Review Report 023-2025](#) at paragraphs [29] to [35].

¹⁴ See 2021 SKQB 296 at paragraphs [68] to [73]

office will first require submissions from the Applicant, and the body from whom the request is made, as to how the new request is not frivolous and/or vexatious.

IV FINDINGS

[26] OIPC has jurisdiction to conduct this review.

[27] CRNS has conducted a reasonable search for responsive records.

V RECOMMENDATION

[28] I recommend that CRNS take no further action regarding search.

Dated at Regina, in the Province of Saskatchewan, this 12th day of August, 2025.

Grace Hession David
Saskatchewan Information and Privacy Commissioner