



Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

Personal Health Information Protection Act, 2004

REPORT

FILE NO. HI-050014-1

A Physician



Tribunal Services Department
2 Bloor Street East
Suite 1400
Toronto, Ontario
Canada M4W 1A8

Services de tribunal administratif
2, rue Bloor East
Bureau 1400
Toronto (Ontario)
Canada M4W 1A8

Tel: 416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9188
TTY: 416-325-7539
<http://www.ipc.on.ca>

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INVESTIGATOR: Nancy Ferguson

SUMMARY OF INFORMATION GIVING RISE TO THIS REVIEW:

A newspaper article reported that used medical supplies and forms with personal health information were found in the driveway of a local resident (the homeowner). The article noted that the homeowner was concerned that the garbage included bloodied gauze and might be harmful particularly for animals and children living in the area. The article also referred to the homeowner's concern about patient confidentiality and identity theft as the garbage included lab test forms which included information about patients.

The Office of the Information and Privacy Commissioner/Ontario (the IPC) opened a file and conducted a review of this matter under the *Personal Health Information Protection Act, 2004*, (the *Act*) in light of this newspaper article.

RESULTS OF THE REVIEW:

The IPC contacted the homeowner who provided the following information:

- a small white bag and a large green bag of garbage were found near his home;
- he had not put out his garbage yet and wondered where they had come from;
- the municipality had recently stopped collecting garbage for businesses in the community;
- he went to look and saw small bandages and other materials that made him think the garbage was from a medical clinic or doctor's office as there were also carbon papers that appeared to contain patient information;
- he was reluctant to reach into the bag too deeply, fearing it might contain medical waste or infectious material;
- it was upsetting for the homeowner and his family that this garbage had been left near his home, so he decided to contact the police;

- a police officer attended that evening and checked the carbon papers with the homeowner;
- using a flashlight, names of patients and health card numbers could be seen; and
- a few numbers and letters of an address were also visible to show where the paper had originated from, but not a full address or name.

The homeowner explained that after looking at the contents at the top of the large green bag, he and the police officer determined that the garbage likely came from a nearby office building that contained a lab and clinic. The police officer took the bag containing the carbon papers away and the homeowner understood the officer would check the office building to see who it belonged to.

The homeowner then described the events the following day as he wanted to make sure that the individual or organization responsible for placing the garbage addressed the situation and also to prevent it from happening again:

- he passed by the office building containing the lab and the clinic while taking his son to school;
- he saw what appeared to be the garbage bag sitting on top of the dumpster behind the building;
- he went into the building to make sure that the staff at the lab and the clinic had been told about the contents of the bag;
- he told the staff at the lab and a doctor from the clinic (the clinic doctor) about the bag on the dumpster and what had happened the evening before;
- the lab staff denied the bag came from their office but the clinic doctor seemed concerned and indicated that the matter would be looked into;
- as he was leaving he saw staff from the lab outside the building and believed they were going to get the bag from the dumpster;
- later that same day, he observed the bag still sitting on the dumpster; and
- when he passed by again in the evening the bag was no longer on top of the dumpster but there were garbage bags out for collection across the street and he became concerned that the bag containing patient information was among them.

The homeowner explained that at that point, he concluded that nothing was being done to address the situation and he decided to contact a local politician and the media. He was not aware of the IPC or its mandate until he was provided this information by the newspaper reporter that came to interview him about the incident. He noted that if the lab staff or clinic doctor had told him about the IPC and its mandate, he would have contacted the IPC.

The IPC then contacted the clinic referred to in the newspaper article and spoke to the clinic doctor. She indicated that, in response to a suggestion from a newspaper reporter who interviewed her about the matter, she decided to retrieve the bag and examine its contents for the first time. The clinic doctor confirmed that the bag had not been retrieved from the dumpster or examined when the homeowner attended at the clinic to tell staff about the bag. The bag had also not been examined by the clinic doctor before responding to the questions from the newspaper reporter. The clinic doctor had assumed that the bag and its contents had originated

from the clinic, particularly given that the homeowner had indicated that the police had been involved.

The clinic doctor reported that the bag was found inside the dumpster behind the building and when its contents were carefully reviewed, it was discovered that it contained envelopes identifying another local doctor. This doctor was immediately contacted and had already attended to pick up the bag that same day.

The IPC contacted this doctor who acknowledged ownership of the materials in the garbage bag and confirmed they had been thoroughly reviewed. The IPC worked with the doctor to ensure that the obligations under the *Act* were considered, including the obligation to provide notice to the affected patients as set out in section 12(2).

During the course of the review, the doctor provided the IPC with the results of her own investigation into the matter.

The doctor advised that the municipality had recently ceased the collection of garbage from local businesses. As a result, a staff member had been taking the garbage from the office to her home and putting it out for residential pick-up. This staff member lived in the vicinity of the homeowner who had found the garbage. The doctor suspected that an animal may have dragged the garbage to the location where it was found.

The doctor advised that she had thoroughly examined the contents of the bag. The newspaper article referred to the homeowner's concern that the garbage appeared to include medical waste. The doctor confirmed that there was nothing in the bag that was medical in nature that might have been improperly placed in the regular garbage. She confirmed that it did not contain any medical debris and advised that such material is picked up by a medical waste management company. The doctor noted that she may not have had all the materials originally discovered by the homeowner but there was no medical waste inappropriate for regular garbage collection in the bag she recovered from the clinic. The doctor pointed out that patients may place bandages, gauze to cover minor wounds and items like diapers, in garbage receptacles in the office. However, the clinic has procedures in place to identify the appropriate materials for regular garbage and those to be handled by the medical waste management company.

The doctor reported that the only items in the bag containing patient health information were pieces of carbon paper. These carbon papers consisted of the centre portion of the laboratory test requisition forms that the doctor fills out for certain patients. The doctor advised that these are standard forms provided by the Ministry of Health and Long Term Care. The carbon paper is used to transfer information from the top copy of the form where information is entered by the doctor to a second copy under the carbon. The forms have blank spaces that are filled out by the doctor and contain a list of laboratory testing. On the top copy of the form, the doctor enters the patient identifying information including the health number, date of birth, phone number, name and address. The doctor also places an "X" in the appropriate box to indicate the laboratory testing that was being requisitioned for the patient. The doctor's name and address are also entered. The doctor explained that the top copy of the requisition form is given to the patient to take to the lab while the bottom copy is kept in the patient's chart and shredded when the test results have been returned.

The information entered on the lab requisition form is visible on the carbon as this permits the transfer to the physician's copy at the back of the form. In this case, the doctor's name and address was entered using a stamp which did not adequately transfer this information to the carbon paper. If this information had been visible, the homeowner and the police officer would have been able to correctly determine the source of the carbons and therefore the source of the garbage.

The doctor reported that the practice in the office was to dispose of any documents containing personal health information using a shredder. The carbon papers were not shredded because they were too thin to be fed through the office machine.

The doctor indicated that consultation had been undertaken in the past with a local laboratory to find out how to dispose of the carbon papers in a manner that would prevent any patient information from being visible. This laboratory advised the doctor that the carbons should be folded in half and the surfaces rubbed together to obliterate the information. The doctor acknowledged that this had clearly not been effective as the information was still visible on the carbons found by the homeowner.

The doctor carefully reviewed the carbons that were in the garbage bag to determine exactly what personal health information was visible. When held to the light, patients' names, addresses phone numbers and health card numbers were visible. The doctor advised that the type of laboratory testing being carried out could not be determined from the carbon itself without the other portions of the requisition form which had not been placed in the bag.

The doctor worked with the IPC to develop a plan to carry out notification of the affected patients. It was determined that patients would be advised about the incident when they next attended the doctor's office. The patients were identified as having a high likelihood of returning to the office given the type of care they were receiving. The doctor reported that the nature of the testing was not highly sensitive.

To help avoid this problem in the future, the doctor devised a method that allowed them to effectively shred the carbons in the office by placing a regular piece of bond paper with the carbon and inserting both through the shredding machine at the same time.

On the basis of all of the above, it was determined that further review of this matter was not warranted and the file was closed.

Original signed by:

Ann Cavoukian, Ph.D.
Commissioner

December 19, 2005