

NORTHWEST TERRITORIES INFORMATION AND PRIVACY COMMISSIONER

Review Recommendation 11-096

10-154-4

April 13, 2011

BACKGROUND

In May of 2010, in the wake of a series of news reports about medical records being faxed to the wrong places, I received a letter from the Complainant in this case in which he brought to my attention concerns about misdirected medical phone calls.

The Complainant indicated that the last four digits of his home telephone number were the same as those belonging to a Yellowknife medical clinic. The first three digits were different. For a number of years, the Complainant had been receiving calls, almost on a daily basis, which were meant for the clinic. Most of these phone calls were from patients. Many left messages when the answering machine kicked in.

The Complainant's concerns, however, were not about patients who mistakenly called and left messages, but about the fact that a not insignificant number of messages had been left on the answering machine by community health centers, doctors and their offices, as well as the R.C.M.P., sometimes with quite detailed information about patient and patient health. These messages were left on the Complainant's answering machine notwithstanding the fact that the machine clearly indicated that the caller had "reached the home of" .

The complaint was passed on to the Yellowknife Health and Social Services Authority (YHSSA) for their comment. I specifically asked them to provide me with a copy of any written protocols, policies or practice directions in place with respect to the leaving of messages on answering machines. In response, Yellowknife Health and Social Services acknowledged that the telephone numbers of the clinic and the Complainant's

home were very similar. They also confirmed, however, that the clinic in question is no longer in operation and the telephone number no longer in service so the immediate and specific concerns raised should no longer be an issue.

On the larger, question, however, YHSSA pointed out that they really have no way to control third parties who choose to leave messages, even when the machine clearly indicates the caller has reached a private home and not the clinic intended. They did advise that the staff at YHSSA medical clinics are advised during their orientation about confidentiality and that the new staff orientation includes discussion about the importance of confidentiality as well as discussion of case scenarios that highlight examples of decision making by staff when errors could or would result in confidentiality being breached. All employees are also required to sign an oath of confidentiality.

DISCUSSION

This complaint is not one that is easily addressed. As pointed out by YHSSA in their response to me, the complaint did not involve allegations of YHSSA employees breaching privacy, but rather about third parties, over which YHSSA had no control, leaving messages in circumstances they clearly should not have done. The fact is, however, that other clinics within the NWT health care system, doctors and their staff and members of the R.C.M.P. should know better than to leave messages involving personal health information on messaging machines, particularly where the message has clearly indicated that the caller has reached a home telephone number, and not the clinic. That this happens at all suggests to me carelessness, inattention or laziness.

In today's age of instant communication, we have in some respects lost the common sense that comes with having time to think about what we are doing. We are all busy people. Many of us multi-task. We sometimes don't listen or think beyond our singular focus. I can understand how a busy person might "turn off" when the answering machine comes on and not really listen to the message indicating that the caller has reached a private home. Our minds have already moved on to the next step...leaving the message.

This is not something that YHSSA could have fixed (except, perhaps, by changing its telephone number). Clearly the recipient of a voice mail message has no control over the message left. As noted, however, every health authority and medical care provider in the Northwest Territories that is subject to the *Access to Information and Protection of Privacy Act* should be reminded about the care required in the use and/or disclosure of personal health information. This is a system - wide issue. Doctors, nurses and administrators should be reminded again and again of their duty to protect the personal information of their patients. Whether it is a stand alone policy with respect to leaving voice mail messages or it is included within other policies dealing generally with communication practices, there should be a written policy which provides that when leaving voice mail messages, no detailed medical information should be provided. A written policy, repeated often and ingrained in the general psyche of medical personnel may make medical professionals think twice when leaving a message on an answering machine or on a voice mail system. That policy should be system wide and should address when a voice message can be left and when other means of communication might be the better way to go. I would suggest, as well, that the policy outline what kind of messages can be left on voice mail - the name of the caller, the return phone number and perhaps, if necessary, the name of the patient.

RECOMMENDATIONS

As noted above, the specific complaint made by the Complainant has been addressed completely in that the phone number for the clinic is no longer in use. The “fix” for the bigger issue, is not something solely within the power of YHSSA to address. There must be a system wide policy throughout the Northwest Territories and applicable to all who work within the health care system which addresses, at a minimum:

- a) when it is and when it is not appropriate to leave a voice mail;
- b) when a voice mail message is left, what kind of information is and is not appropriate in the content of the voice mail;

This policy must be made known to everyone working within the government's health care sector and its existence must be promoted and repeated so as to ensure that the importance of following the policy is reinforced.

Although I dealt with YHSSA in dealing with this complaint, my recommendations are being made to the Minister of Health and Social Services. It was not anything done or not done by YHSS that caused the difficulties in this case. They were merely the intended recipient of third party telephone messages. Rather, the issue is a systemic one, demanding a systemic solution.

Elaine Keenan Bengts
Northwest Territories Information and Privacy Commissioner