



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-050030-1

Misdirected faxes to a private business



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INVESTIGATOR:

Gillian Judkins

SUMMARY OF INFORMATION GIVING RISE TO REVIEW:

Mr. John Musson, owner of 4 Print.ca, reported to the Office of the Information and Privacy Commissioner/Ontario (the IPC) that numerous faxes that contained personal health information, which were intended for a number of different health information custodians, had been received at his business. As a sample, Mr. Musson provided the IPC with 21 faxes that had been received between April and August of 2005, at his place of business.

RESULTS OF REVIEW:

Mr. Musson informed the IPC that he had been receiving misdirected faxes for the past 10-15 years at his business, from a number of sources. Over the years he had contacted the various senders to inform them that they had the incorrect fax number but recently the faxes had increased in volume and he was not always able to contact the senders.

Mr. Musson was concerned that personal health information had been received by himself instead of the physicians the faxes were intended for. Over the past summer, he began to keep the faxes that had personal health information on them in order to provide a sampling to the IPC of what he had been receiving. Mr. Musson stated that he had given the IPC all the health related faxes his shop had received and that he was not in possession of any additional faxes.

As a result, the IPC reviewed the faxes and determined that there were 19 health information custodians and an insurance company who were the senders of the misdirected faxes. The 19 health information custodians included physicians' offices, hospitals, pharmacies, and laboratories. These 19 custodians and the insurance company were all contacted by the IPC and asked to immediately remove the incorrect fax number from their system. They were also told to advise any staff that may have been using the incorrect fax number. In addition, they were asked to review and correct any databases or manuals that may have contained the incorrect number.

The IPC also determined that seven physicians were the intended recipients of the faxes and each of their offices was contacted about the matter. In one case, the IPC was advised by the sender of the fax that they were unable to determine who the intended recipient was.

Further investigation revealed that the majority of faxes were intended for physicians who worked at, or had previously been affiliated with, a walk-in clinic. The clinic was then contacted immediately to find out if they could assist the IPC in determining where the custodians may have received the incorrect fax number. The clinic's correct fax number was one digit different from the incorrect fax number. The clinic checked all relevant information such as business cards and listings for their current physicians to ensure that the number had been printed correctly. The clinic confirmed that all of their printed materials had the correct fax number listed.

The IPC then had further discussions with the custodians who had sent the misdirected faxes and found that there had been a physician directory printed in 2002-2003 that contained an incorrect fax number for at least one of the physicians.

As a result, the IPC contacted the publisher of the directory. A search by the publisher of their database revealed that it did indeed list the incorrect fax number from 2001 on. The directory had been printed twice in the past 10 years and the publisher had a list of all individuals who had received their directories. The publisher agreed to immediately remove the incorrect fax number from their database and also notify the recipients of the directories, via fax, that there was an error that should be corrected immediately in the directories. The IPC requested the publisher to confirm, in writing, when this was completed. On October 20, 2005, the publisher confirmed in writing that notification had been faxed out to all recipients of the Directory.

Section 12(2) of the *Act* requires health information custodians to notify patients if their personal health information is stolen, lost or accessed by unauthorized persons. Although the responsibility to fulfill this obligation rests with the 19 custodians who sent the faxes, each of the seven physicians who were the intended recipients of the faxes agreed to undertake the notification of their patients, given that in some situations, they had more than one patient who had been affected and the physicians had recently been in contact with these patients. In the one case in which the intended recipient was not able to be identified, the sender of the fax notified the patient directly.

The 19 custodians who had originally sent the faxes in this matter were requested to provide to the IPC, in writing, the steps they have taken to rectify the situation in each of their facilities. The seven physicians who had patients involved in this matter were also asked to confirm in writing, once they have notified their patients of the above breach. All the patients involved would be provided with the contact number for the IPC in the event that they wished to discuss the matter further with our office.

Although all of the custodians who misdirected the faxes have responded verbally to the IPC that they have taken the necessary steps to change the incorrect fax number, they have all agreed to provide written confirmation of their investigation and the actions they have taken in this matter. To date, the IPC has received written confirmation from 17 of the 19 custodians who misdirected

the faxes, and six physicians who have provided written confirmation that their patients have been notified of the incident. In the case in which the sender of the fax was handling the notification, the facility has provided verbal confirmation that the patient has been notified.

In addition, Mr. Musson, who originally received the faxes, has also agreed to contact the IPC in the future should he receive any further misdirected faxes. The IPC wishes to express its sincere appreciation to Mr. Musson and his staff at 4 Print.ca for bringing this matter to our attention. It is only with the assistance of committed individuals and businesses like 4 Print.ca, who assist the IPC to protect the personal health information of people across Ontario, that the requirements of the *Act* are fulfilled.

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

October 25, 2005 _____