



CASE 1-CAPITAL HEALTH PRIVACY BREACH

Written By: Daniel Piche



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Table of Contents

Introduction	2
Findings	3
Perspective.....	6
Conclusion.....	7
References	8

Introduction

In between the period of 2005 and 2011, it was found in one case that 105 people had their personal health information improperly accessed by an individual of the name of Katharine Zinch Lawrence. This person is a former Capital health staffer who lost her job over the ordeal.

There has been a proposed settlement worth roughly \$400,000 that is still being revised for approval by the courts or judicial system. The entire sum of this money is expected to be paid out to individuals who feel that they have received personal harm over the whole mess and many of these people are direct family to Katharine Zinch Lawrence.

The suit represents 89 plaintiffs and 69 of these people where family members. The previous count was 105 plaintiffs; however, 16 family members decided to not sue Katharine.

(Andrew Rankin, 2018, para. 15)

This case is still in the process of being worked out because apparently many of the victims are traumatised by the privacy breach.

“Having your private information accessed by somebody that you did not authorise to have access to is troubling and causes distress to individuals,” said lawyer Ray Wagner, whose law firm is one of three firms representing victims in the case. (Richard Woodbury, 2018, para. 4)

On October 31st, 2018, there will be a hearing focusing on the logistics of the payout six years after the lawsuit was launched. Once approved by the supreme court, individuals involved in the privacy breach will receive compensation.

Findings

Even though the breach occurred between 2005-2011, it was not discovered until 4 years later. Once discovered, individuals impacted began to receive notification by mail and phone calls from the RCMP.

One victim by the name of “Beverly” is convinced that someone from Alberta with the same name address and phone number used her information and violated her probation. She is also convinced that she experienced this identity theft because of a hospitalization she had in 2010 which was accessed by Katharine Zinch Lawrence. (Andrew Rankin, 2018, para. 2)

Another victim by the name of “Moore” says that she was gravely traumatised by the ordeal and lost all faith in the health care system to keep her information confidential.

“It’s brought on tons of anxiety,” she said. “When I consult with my surgeon, I have no faith that what I tell them will be kept confidential and I haven’t been as quick to disclose things about my health, which I think might be slowing my healing process.”

(Andrew Rankin, 2018, para. 5)

Ray Wagner of Wagner’s Law Firm in Halifax is one of three firms representing victims in the case. Wagner said:

“I am pleased with the province’s agreement to settle the matter and I am assured that medical records will be subject to tighter security measures in the future. But the provincial government needs to do more to protect people’s private information.”

(Andrew Rankin, 2018, para. 11)

The proposed settlement says that non-relatives shall each receive \$1,400 and relatives will receive \$2,700. There is also a third category to the payout which allows individuals who feel they've suffered additional harm will receive \$8,000. (Richard Woodbury, 2018, para. 5)

After following up with individuals involved in the case, it was found that some of the confidential information that Katharine acquired was shared with people in the community.

During an interview with CBC, Katharine acknowledged that she viewed the files and comments that she was not proud of her actions but the information was easily available. She also claims that the number of patients records she viewed is no larger than 100. (Richard Woodbury, 2018, para. 9)

Since the scandal was made public six years ago, more health authority employees have been caught accessing records. In July 2017, six employees were found guilty to having accessed medical records of 337 patients. (Andrew Rankin, 2018, para. 15)

The health authority said its privacy office conducts monthly department wide audits to protect against "unauthorized access, use, disclosure, copying, modifying or disposal" of personal information. (Richard Woodbury, 2018, para. 17)

"We continually review our systems, processes, privacy policies and confidentiality training for employees to reduce the likelihood of this type of breach from happening again." (Richard Woodbury, 2018, para. 17)

Capital Health District Health Authority says though privacy breaches are rare, it does not actively look for violators. On Tuesday it was revealed that a former employee accessed more than 120 patient files without authorization. Employees at Capital Health who access

patient health records require a username and password to do so; however, once they have that there are no checks to make sure they are not violating policy. Capital health said it does not do any random audits. It only investigates if they receive a complaint. As a result of this ordeal Capital Health has purchased a piece of software that will look for any suspicious activity in the system, but it can't say when it will be up and running. Even with the software in place; however, if someone is going to disregard policy and access records inappropriately, there is no stopping that in the end. (Cbc News, 2012, para. 1)

Keeping personal health records confidential is a very important aspect in governing public health information and the laws and regulations related to the Personal Health Information Act are changing to suit the needs of the patients. (Government of Nova Scotia, 2017, page 1)

On June 1st, 2013 PHIA came into place and it states that custodians are legally responsible for keeping patient's information private. Some of a custodian's responsibilities are stated below:

- Take reasonable precautions to safeguard personal health information
- Ensure records are stored, transferred and disposed of in a secure manner
- Designate a contact person for any inquiries and consider all requests for access to records
- Provide notice of purposes and maintain complaints policy
- Provide written privacy statement and description of practices
- Produce a record of user activity at the request of the individual

(Government of Nova Scotia, 2017, page 1)

The Personal Health Information Act is very comprehensive and sets out clear guidelines in relation to individuals rights and custodian responsibilities. Knowledgeable implied consent is the model for health care. Under PHIA patients can:

- Request access to their personal health information and request corrections
- Request a record of who has accessed their health information
- Limit or withdrawal consent to the collection, use or disclosure of personal health information
- Patient must be notified if there has been a breach that could cause them harm or embarrassment
- Contact Review Officer for PHIA with concerns

(Government of Nova Scotia, 2017, page 1)

Perspective

The whole ordeal that Katharine Zinch Lawrence went through is very unfortunate. I can understand that it could have been an accident and maybe one day she was sitting at her work desk bored with nothing to do so she decided to view some records to pass some time or fulfill her curiosity. The unfortunate thing is that laws are laws and they need to be followed. They were set in place for a reason and Katharine's actions caused the whole Nova Scotia Health authority to lose face and now they must deal with a payout which I don't think Katharine is obliged to payout. I can also understand that many others do the same and it has gone under the radar. The only reason Katharine was caught is because she spoke to a co-worker about what she had done and that person reported her. There is no real way to keep track of who is accessing the records without permission unless you keep track of all record access and perform audits which is what the Health Authority is already doing.

I think that there is lots of work that needs to be done on the education side to let workers know that accessing confidential information is a serious offence. Maybe after the lawsuit with Katharine, health care workers will begin to take their job more seriously.

From another perspective, I think that the whole lawsuit amounting to \$400,000 is ridiculous. It is simply health records we are talking about here. People tend to take advantage of any opportunity they can to get ahead without taking into consideration that it was an honest mistake. On top of that, the majority of the people were related to Katharine. I personally would never sue a family member no matter what they did. Again, what it boils down to is that these people are taking advantage of the system. On top of that, one of the payouts for family members that went through the most embarrassing breach are receiving \$8000. Basically, from what I can gather is that, for one employee looking at one health record is required to pay out almost \$10,000.

If I was one of the family members, I would try to solve the problem by requesting the Nova Scotia Health authority to tighten up security. I would not create more problems by suing the Nova Scotia Health authority.

Conclusion

The Capital Health Authority privacy breach that became public is very unfortunate, but we cannot dwell on our mistakes but instead try to move on and learn from them. Hopefully, people will be more careful in the future so something like this never happens again. I am sure eventually this mess will be forgotten, and I don't think the Capital Health Authority cannot afford to let something like this happen again.

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