

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

PHIPA DECISION 293

Complaint HA22-00134

Unity Health Toronto

July 31, 2025

Summary: The complainant received health care at a hospital that is part of Unity Health Toronto (UHT). Under the *Personal Health Information Protection Act, 2004 (PHIPA)*, the complainant asked UHT for all notes, including doctors' orders, made by all doctors involved in his care. UHT ultimately granted access under *PHIPA* to hundreds of pages of records. The complainant believes there are additional records, including handwritten notes and doctors' orders, that UHT failed to identify and locate in its searches. The adjudicator finds that UHT has satisfied its obligations under *PHIPA* to conduct a reasonable search for responsive records. She dismisses the complaint.

Statutes Considered: *Personal Health Information Protection Act, 2004*, SO 2004, c 3, Sch A (as amended), sections 53 and 54.

BACKGROUND:

[1] The complainant was an inpatient of St. Michael's Hospital (the hospital), part of Unity Health Toronto (UHT), for a period of several weeks in 2018. Some time later, he made a request to the hospital under the *Personal Health Information Protection Act, 2004 (PHIPA)* for all notes made by all doctors who had anything to do with his care. The complainant specified that he seeks all handwritten and all typed or dictated notes, as well as every nurse's note, handwritten or typed, and all doctors' "orders files." While his initial request specified a time period of a few days in 2018, he later amended his request to cover the duration of his 2018 hospital stay.

[2] In response to his request, UHT (on behalf of the hospital) granted the

complainant access to 340 pages of medical records.

[3] The complainant was dissatisfied with the completeness of this release, and he filed a complaint with the Office of the Information and Privacy Commissioner of Ontario (IPC). In his complaint to the IPC, the complainant identified several categories of records that he believes are missing from the records he received. Among these are two pages from a specified date in 2018, and numerous doctors' orders.

[4] During the IPC process, the complainant described the missing pages more particularly as a note from the cardiology team regarding medications, and a note from a staff psychiatrist regarding his wellbeing. UHT conducted another search and located 12 additional pages, covering (but not limited to) the specific date in 2018 identified by the complainant. UHT explained its failure to locate these records during its initial search by noting that the complainant had changed the timeframe covered by his access request.

[5] The complainant remained dissatisfied with the releases made to him. He provided reasons for his belief that there are additional records, which I summarize further below. During the mediation stage of the IPC process, UHT agreed to conduct another search for all records relating to the complainant, including records relating to the use of restraints and the administration of insulin. UHT describes this third release as consisting of 1,725 pages, including those located through its previous searches, and comprising all records extracted from its electronic records systems.

[6] The complainant remains dissatisfied with UHT's search efforts. He maintains there are two handwritten pages missing from UHT's releases to date. He says he and his parents saw and discussed these pages, which he says are titled "Medical Notes" and contain proof of malpractice. He also suspects the hospital has removed other pages from his admission record for his 2018 hospital stay.

[7] As the parties could not resolve this matter through mediation, the file was moved to the adjudication stage of the complaint process. During the review, the file was placed on hold for a period at the complainant's request. Ultimately the parties made representations on the issues, which the IPC shared in accordance with the IPC's *Code of Procedure for Matters under the Personal Health Information Protection Act, 2004*.

[8] In this decision, I find the complainant has not established a reasonable basis to believe further searches would yield the records he describes. I uphold UHT's search for responsive records, and I dismiss the complaint.

DISCUSSION:

Did UHT conduct a reasonable search for records?

[9] In this complaint, there is no dispute that UHT is the "health information

custodian”¹ with respect to records of the complainant’s “personal health information,”² as those terms are defined in *PHIPA*. The parties agree that the records the complainant seeks, if they exist, are records to which the complainant would have a right of access under *PHIPA*.

[10] Where a requester claims that additional records exist beyond those identified by a custodian, the issue to be decided is whether the custodian has conducted a reasonable search for records as required by sections 53 and 54 of *PHIPA*. These sections require the custodian to make reasonable efforts to identify and to locate requested records.

[11] In *PHIPA* Decisions 17, 18, and later decisions,³ the IPC adopted the principles outlined in IPC orders that address the issue of reasonable search under public sector access and privacy statutes the IPC administers. The IPC has found that *PHIPA* does not require the custodian to prove with absolute certainty that further records do not exist. However, the custodian must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.⁴

[12] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request.⁵

[13] Although a requester will rarely be in a position to indicate precisely which records the custodian has not identified, the requester still must provide a reasonable basis for concluding that such records exist.⁶ If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the custodian’s decision. If I am not satisfied, I may order further searches.

[14] During the review, I asked UHT to provide a written explanation of all the steps it took in response to the request. UHT describes three different searches conducted on three different dates by its health records manager, with the last search resulting in the release of 1,725 pages of records. All three searches were of its electronic records systems Sorian and Sovera. UHT explains that all records related to inpatient stays at the hospital must be stored in these electronic systems, and that it is not aware of any

¹ Specifically, UHT is the “person who operates” the hospital, within the meaning of paragraph 4.i of the definition at section 3(1) of *PHIPA*.

² “Personal health information” is defined in section 4 of *PHIPA* to include identifying information about an individual that relates to the individual’s physical or mental health (paragraph (a) of the definition at section 4(1) of *PHIPA*); and to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual [paragraph (b)]. It also includes other identifying information about the individual contained in a record that contains personal health information of the type enumerated in section 4(1) of *PHIPA* [section 4(3)].

³ Among them, *PHIPA* Decisions 43, 48, 52 and 57.

⁴ Orders P-624 and PO-2559; *PHIPA* Decisions 17 and 18.

⁵ Orders M-909; PO-2469; PO-2592.

⁶ Order MO-2246; *PHIPA* Decision 18.

additional responsive records that may once have existed but have since been destroyed.

[15] The complainant's detailed representations outline his serious concerns about his stay at the hospital, including care decisions made by specific doctors who treated him. He explains that among the records he seeks are two critical pages from the progress notes section of his admission chart. He identifies the authors of these pages, and specific issues with what is recorded on these pages, which he says prove negligence on the part of hospital staff.

[16] The complainant explains that medical notes written by doctors are composed in the SOAP (Subjective; Objective; Assessment; Plan) format. He identifies a specific page that contains some of these components but not others. I understand the complainant to be saying that the two pages he seeks contain the missing components of medical notes composed in SOAP format.

[17] The complainant also reports that the admission chart he received lacks a "mandatory and complete" section of doctors' orders. He says this section is missing specific orders from his inpatient stay, including orders for the restart of his home medication, for constant nursing supervision, and for physical restraints, among others.

[18] The complainant's evidence for his assertions that UHT removed and/or falsified pages from his admission chart includes his observation that certain pages of pharmacist orders in the chart contain extremely faded stamps or are missing stamps that are intended to display crucial cautions to all treating physicians. He believes these stamps were faded or removed intentionally.

[19] The complainant also finds significant the fact the hospital's two later searches yielded additional records that it failed to locate in its first search. For the complainant, this is evidence that the hospital intentionally withheld responsive records at earlier stages, and indicates that the hospital continues to withhold other records, and/or has altered records, to prevent him from pursuing a successful lawsuit against the hospital.

[20] With respect to this last claim, I find reasonable the hospital's explanation that its second search, conducted for records covering a broader time frame than the one described in the complainant's original request, yielded 12 additional pages.

[21] The hospital has also explained that its third search and corresponding release of records, comprising 1,725 pages, includes records previously released to the complainant. The hospital did not explain the parameters it applied in conducting this third search, and how it led to the identification of so many pages. However, I have examined the records package the complainant submitted during the review, which he identifies as his complete hospital chart. This package contains 2,137 pages, a number of which fall outside the date range of the complainant's amended request, and are thus not responsive records in this complaint. This evidence does not persuade me that the hospital is intentionally withholding additional responsive records. In particular, I do not accept that the fact the

hospital's further searches yielded additional records is, by itself, evidence of an intent to mislead or to otherwise avoid compliance with *PHIPA*.

[22] I have also considered the complainant's assertions about the incomplete nature of his admission chart, including his allegations about missing information in the medical notes and doctors' orders sections, and the faded and/or missing pharmacist's stamps. I understand from the complainant that his allegations about deficiencies in the health care he received from hospital doctors and in their recordkeeping practices are the subject of complaints he filed with the College of Physicians and Surgeons of Ontario, the health regulatory body for physicians in Ontario. Such issues are outside the scope of this complaint under *PHIPA* about the reasonableness of UHT's search for records in response to the complainant's access request made under *PHIPA*.

[23] I have, however, considered whether the complainant's allegation about missing information in the records he received establishes a reasonable basis to believe that other responsive records must exist. During the review, I asked the hospital to address the complainant's evidence that the additional pages he seeks are from handwritten medical notes. I specifically asked the hospital to address whether non-electronic (i.e., handwritten) records are stored in its electronic records systems, and, if so, the procedure for doing so, including an explanation of what happens to the original (i.e., handwritten) records. I also asked the hospital to explain the basis for its position that responsive records do not exist (or could reasonably not be expected to exist) outside these electronic systems.

[24] UHT explains that all paper records, including handwritten clinical notes of the sort described by the complainant, are kept in the hospital's medical unit for 48 hours after a patient is discharged. After that period, the paper records are picked up by the health records department for scanning into Sovera, its document management system. Records that are scanned into Sovera are then accessible in Sorian, UHT's primary electronic medical records system. UHT explains that its policy is to destroy paper records once they have been scanned into the electronic systems, and it provided a copy of that policy. As a result, UHT says, its electronic systems Sorian and Sovera are the only locations where responsive records exist, or could reasonably be expected to exist.

[25] In response to this further explanation from UHT, the complainant says UHT has simply provided an outline of its routine when dealing with patient charts. While I understand the complainant to be questioning whether UHT in fact followed this policy in dealing with paper records generated from his 2018 hospital stay, I see no reasonable basis to believe UHT did not follow its policy in this instance.

[26] In the circumstances, I am satisfied that UHT has demonstrated reasonable efforts to identify and locate responsive records, including the specific records described by the complainant, in accordance with its obligations under *PHIPA*. While I have considered the whole of the complainant's detailed evidence, including his broader allegations about his experiences at the hospital, I am not persuaded it establishes a reasonable basis to

conclude the records he seeks must exist.

[27] For all these reasons, I uphold UHT's search for responsive records. I dismiss the complaint.

NO ORDER:

For the foregoing reasons, I dismiss the complaint without issuing an order.

Original Signed by: _____

Jenny Ryu
Adjudicator

July 31, 2025