



## HOSPITAL EMPLOYEES' UNION

---

**PROVINCIAL OFFICE:**

5000 North Fraser Way, Burnaby, BC V5J 5M3 • TEL: 604-438-5000 • FAX: 604-739-1510 • WEB: [www.heu.org](http://www.heu.org)

January 31, 2013

**Via Fax: 250 387 1696**

Elizabeth Denham  
Office of the Information and Privacy Commissioner  
for British Columbia  
P.O. Box 9038, Stn Prov Govt  
Victoria, B.C. V8W 9A4

Dear Commissioner Denham:

**Re: Request for an Investigation and Audit of the Existing and Proposed Contracts  
between PHC and Providers of Medical Transcription Services**

---

We are writing to urge you to conduct an investigation and audit pursuant to your mandate and authority under sections 42 and 44 of the *Freedom of Information and Protection of Privacy Act (FIPPA)*.

Specifically, we ask that you investigate and audit the adequacy of the measures taken to ensure that the personal health information collected, transferred, accessed, used, disclosed, stored or disposed of as a result of the following contracts is protected, accurate and complete:

1. the current contract(s) between Fraser Health Authority, Providence Health Care (PHC), Provincial Health Services Authority or Vancouver Coastal Health Authority, and Accentus Inc. ("Accentus") for the provision of medical dictation and/or transcription ("Medical Transcription") services; and
2. the contract between PHC and MModal, awarded pursuant to the Request for Proposals issued March 22, 2012 (the "RFP"). Please find enclosed a copy of the RFP.

The above contracts are part of Lower Mainland Consolidation ("LMC"), a process to consolidate and/or contract out non-clinical services provided by individual health authorities within the Lower Mainland, including Fraser Health Authority, Providence Health Care, Provincial Health Services Authority and Vancouver Coastal Health Authority (the "Health Organizations").

### ***LMC and outsourcing Medical Transcription***

A Master Services Agreement, dated January 1, 2011, sets out the structure of LMC. Under this structure, each Health Organization is assigned the role of “lead health organization” for one or more of the consolidated services across the Lower Mainland. As the lead health organization for a given service, a Health Organization is responsible for procuring and negotiating contracts for the provision of that service to all of the Health Organizations. PHC is the lead health organization within the LMC for the provision of medical dictation and transcription services (“Medical Transcription”) to the Health Organizations.

Medical transcriptionists (“MTs”) are responsible for transcribing physicians’ voice-recorded dictation of surgical procedures, consultations, medical histories, laboratory and diagnostic test results, and various medical reports.

Currently, the Health Organizations contract out approximately half of their medical transcription work to Accentus. Accentus delivers this service through MTs that work independently out of their homes (“Outsourced MTs”). However, there are approximately 130 MTs employed directly by the Health Organizations who work out of three hubs, located in Vancouver, New Westminster and Abbotsford (“Internal MTs”).

On March 22, 2012, PHC issued an RFP for a technology and labour solution that would allow for 100% outsourcing of the Medical Transcription services being used by the Health Organizations. This RFP closed on April 26, 2012 and the contract was awarded to MModal.

According to the RFP, the contract will be for an initial term of six years with one option to extend for up to five years. The RFP also anticipates the possibility of expanding the use of outsourced MTs beyond the Health Organizations.

In our view, the current and pending outsourcing of Medical Transcription poses serious risks to the security and accuracy of personal health information.

### ***Existing outsourcing of Medical Transcription***

It is our understanding that only the internal MTs currently have access to electronic patient records, diagnostic reports and direct access to physicians and clinics to verify information within the dictation, including drugs, dosages, dates, diagnoses and patient information. Internal MTs function in part as quality monitors with respect to the outsourced reports: editing, filling in blanks and correcting errors made by the Outsourced MTs.

We have received reports that the errors made by Outsourced MTs include mistakes which could be disastrous to patient care.

In addition to the dire consequences that errors in medical transcriptions can have, we have also received reports that after a certain period of time, voice files to be transcribed by Outsourced MTs are purged, regardless of whether the file has been transcribed. And after a certain period of time, "on-hold" reports that are incomplete (i.e. need information verified) are purged, which leaves a gap in patient records.

We are also concerned that the remuneration structure for Outsourced MTs may not lend itself to the careful attention to detail that is required to ensure that medical records are accurate and complete. For example, Donan Forde, who has been an MT for 14 years, including five years in the private sector, has expressed concern about the fact that private transcribers are paid per report, rather than per hour, as this pay structure does not encourage accuracy.<sup>1</sup>

Forde also expressed his concerns regarding the security of personal health information transcribed in the private sector, saying:

For five years I worked in the private sector and not once did anyone come and check to see if my home computer was password protected to see if I had a working environment that was private — not in five years.

Security breaches are not unheard of in the MT industry. For example:<sup>2</sup>

There are reports in the U.S. of major privacy breaches by companies that do medical transcribing. In two separate cases, reported in 2010, hundreds of patient records were mistakenly posted on the web.

In one incident, 1,744 sensitive records were available on a company's website for 10 months. In the other case, more than 1,000 patient records on the server were accessible through the internet, for a period of two years.

Internal MTs work on secure computers within a secure and supervised office environment. Conversely, Outsourced MTs work out of their home with no supervision or guarantee of privacy or security. With the ready availability of the internet, it may be possible for

---

<sup>1</sup> CBCnews British Columbia, "Hospital-record outsourcing raises privacy, safety fears: Some medical transcriptionists and doctors don't want services contracted out" June 25, 2012, online:

<<http://www.cbc.ca/news/canada/british-columbia/story/2012/06/22/bc-medicaltranscriptions.html>>

<sup>2</sup> *Ibid*

Outsourced MTs to transcribe sensitive medical information at their kitchen table, in a busy coffee shop or airport, or on vacation in a foreign country.

Even with the use of passwords and user authentication, there is no guarantee that the personal health information accessed by the Outsourced MTs is not being viewed by an unauthorized person in the room, via malware or through the interception of digital communications.

Perhaps this is why, currently, it is our understanding that Internal MTs are specifically tasked with transcribing dictations that are of an especially sensitive nature, such as dictations regarding high-profile police investigations and abortions.

Given the sensitive nature of the information at issue, and the fact that access to this sensitive information has been granted to a private company and is dispatched to individual home computers, it is clearly in the public interest to ensure that appropriate measures are in place to protect the privacy of personal health information.

#### ***Additional outsourcing of Medical Transcription***

Despite the existing risks to the security and accuracy of personal health information, PHC now intends to outsource all Medical Transcription for health authorities in the Lower Mainland to home-based subcontractors located across the country.

This outsourcing of the approximately 130 Internal MTs exacerbates our concerns regarding the existing contract(s). For example, are there systems and controls in place to ensure that:

- personal health information is properly password protected and only accessed by an authorized Outsourced MT in a private environment, in Canada;
- personal health information is stored as long as necessary, but no longer;
- adequate firewalls are in place, including with respect to all computers used by Outsourced MTs;
- Outsourced MTs are not able to download, upload or print personal health information;
- unauthorized data exchange and access are detected, prevented and logged;
- personal health information is sufficiently encrypted during transmission and storage;
- when an Outsourced MT no longer requires access to personal health information (i.e. they are terminated or change assignments), their access is immediately disabled and all personal health information is wiped from their hard drive(s);

- 
- Outsourced MTs are using only approved network services, including websites and email servers; and
  - all systems are upgraded or patched in a timely way?

The additional contracting out also raises questions regarding the security and accuracy of personal health information beyond the files to be transcribed, including:

- When the Internal MTs are outsourced, what steps will be taken to ensure the personal health information transcribed by the outsourced MTs is accurate and complete?
- Will outsourced MTs have access to the electronic medical records system? And if so, how many people will have access and how will their access be controlled, tracked and limited? For example:
  - will Outsourced MTs be able to access all records in the electronic medical records system;
  - will unauthorized access be detected, prevented and logged; and
  - will the Outsourced MTs be able to download, upload or print personal health information from the electronic medical records system?

### ***Request for an investigation and audit***

For all of the above reasons, we are gravely concerned by the significant risk that outsourcing of Medical Transcription presents to the security, accuracy and completeness of personal health information.

Even the slightest error in a patient's personal health information can have dire consequences. And as stated by Paul D.K. Fraser, Q.C., in Investigation Report F10-02, *Review of the Electronic Health Information System at Vancouver Coastal Health Authority Known as the Primary Access Regional Information System* (paragraph 187):

The protection of privacy with respect to health care information is critical to the health and dignity of each patient, as well as the foundation of the trust relationship between patient and health care provider. The importance of ensuring that health care information be collected, used and disclosed only to appropriate health care providers and be protected from outside threats cannot be overstated.

It is in the public interest to ensure that personal health information is secure, accurate and complete. Often, there is no adequate remedy once an unauthorized disclosure has been made, or a medical error has occurred as a result of an inaccurate transcription. Such mistakes must be prevented before they can occur.

Therefore, we strongly urge you to investigate and audit the current and proposed outsourcing of Medical Transcription, pursuant to your mandate and authority under sections 42 and 44 of *FIPPA*.

Sincerely,



Linnsie Clark  
Legal Counsel

Enc: