

PEI

COVID-19 patient sues Health P.E.I. for privacy breach at hospital

While man was in hospital last April, blogger posted medical details, including HIV status

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Health PEI informed the patient of the privacy issue two days before he was discharged from Queen Elizabeth Hospital. (Brittany Spencer/CBC)

A man who says he was the first person on Prince Edward Island to be hospitalized for COVID-19 is suing Health P.E.I. for breach of privacy.

According to a civil suit filed in P.E.I. Supreme Court, information about the man's medical condition, including the fact that he is HIV-positive, was leaked by a hospital employee and published by Island blogger and political activist Kevin Arsenault.

Arsenault's social media post said the information came from a hospital nurse caring for the patient.

The man is suing Health P.E.I. for \$500,000 in damages.

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A spokesman for Health P.E.I. said the agency cannot comment on the lawsuit, but is aware of it.

"As a result of the widespread dissemination of this information in a small community, the plaintiff suffered social stigmatization and serious mental health injuries, including anxiety and depression," according to documents filed in court.

The man and his husband purchased a home on P.E.I. in 2014, settling in a small community of 300 to 400 people, according to the lawsuit.

Near the beginning of April 2021, the man tested positive for COVID-19. He was admitted to Queen Elizabeth Hospital in Charlottetown on April 9 and was "treated over the following weeks, spending several days in the intensive care unit."

Health PEI audited access to electronic records

On April 21, the man learned his medical history had been posted on Facebook by Arsenault.

According to court documents, Arsenault's post read, "I was contacted late this afternoon by a person with information directly from a nurse caring for the person hospitalized with – allegedly – the virus causing COVID-19."

Attached to the post was a screenshot that read:

"The covid case in the hospital is a gay male in his 40, has HIV and is thereby probably auto immune. He is doing well at this time and is on oxygen... I know many nurses from the hospital and this came from a nurse that directly cares for him. I am not allowed to tell anyone ... "

Arsenault, who frequently posts material suggesting COVID-19 vaccination is dangerous, later removed the screenshot, according to the lawsuit. The entire post has since been removed from his Facebook page.

The plaintiff "was the only person at the time in P.E.I. to be hospitalized with COVID-19 [so] he could easily and conclusively be connected with the subject of this public social media post," says the lawsuit.

- [COVID-19 pandemic reveals major gaps in privacy law, says watchdog](#)

The legal document goes on to say the man and his family "became the subject of rumour and gossip. [He] was unable to leave his house without members of the community staring at him and talking about him."

Health PEI learned about the privacy breach on April 19 and informed the man on April 21, two days before he was discharged from hospital, according to the lawsuit. The agency conducted an investigation, including an audit of who had access to the patient's chart on the hospital's electronic records system.

That audit determined that one hospital employee had accessed the records despite having no connection at all to providing care to the patient.

“The matter publicized ... would be highly offensive to a reasonable person.”

- *Lawsuit*

The lawsuit says a report stemming from Health PEI's investigation said the man's underlying condition "may have associated sensitivity" and thus the patient would have had "an increased expectation of confidentiality."

The P.E.I. Information and Privacy Commissioner's office also investigated the incident, according to the lawsuit. That investigation found that "personally identifiable" health information had been disclosed.

The man and his family sold their home – "at a discount," the lawsuit claims – and left P.E.I. The legal action was filed by a Toronto-based law firm.

"The matter publicized is of a kind that would be highly offensive to a reasonable person," the lawsuit says. "Although the fact of someone being hospitalized for COVID-19 may have been of concern to the public during the pandemic, [the man's] sexual orientation and HIV status was not."

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