

# Policy and Procedure: Right of Access to Information

## Policy Details

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Creation Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_

Applies to: All Employees and Contractors

Approved by: \_\_\_\_\_

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## Purpose

This policy is intended to define a process for facilitating requests for access to and correction of an individual's own health information.

## Right of Access Policy

Subject to exceptions in the Health Information Act (HIA), individuals have a right of access to information about themselves that is in the custody or control of the clinic.

Informal access to information - during the provision of health services, attending custodians and clinic staff will share information verbally with the patient or authorized representative and allow access to or provide copies of their health information records when practical.

The clinic shall provide access to individually identifying health information only to the individual who is the subject of the information or to their authorized representative

When access to health information is requested by an individual, it will be documented and dated.

## Formal Request for Access to Information

When a request cannot be addressed through the clinic's informal access procedures, patients may make a formal request for access to information in writing.

An individual may request access to another person's information only if they are an authorized representative.

All formal requests for access to information will be processed in accordance with procedures set out in the HIA and fees may be charged in accordance with the Health Information Regulation.

Any health information or personal information about individual's other than the applicant will be removed before disclosure of the records. Requests must be processed within 30 days of receipt. (HIA s12)

All requests for access to information should be directed to the practice's Privacy Officer or lead custodian.

The patient shall be provided an estimate of the fees, if applicable. Once the patient has agreed to the fees and paid 50% (HIA s67), the Privacy Officer will review the requested records and, in consultation with the responsible custodian prepare the records for disclosure. All records relating to the request will be reviewed on a line-by-line basis to determine possible exceptions to disclosure.

Access to health information can only be denied based on mandatory or discretionary exceptions outlined in HIA s11. Access requests cannot be denied based on the reason for the request.

If the practice's Privacy Officer determines that discretionary or mandatory exceptions apply to the records requested, the excepted information will be removed from the record prior to the record being disclosed to the applicant. The applicant will be advised that information has been removed from disclosure, and under what sections of the HIA the exceptions have been made.

## Mandatory Exception to Right of Access

A custodian must refuse access to an applicant:

- When the request is for information about a person other than the applicant, unless the information was originally provided by the applicant in the context of a health service being provided to the applicant; or the applicant has authority under Section 104 of the HIA to receive the information (e.g. guardian of a minor, executor of an estate for purposes authorized under the Act) [HIA s11(2)(a)].
- When the information sets out procedures or contains results of an investigation, a discipline proceeding, a practice review or an inspection relating to a health services provider [HIA s11(2)(b)].
- Where disclosure is prohibited by other laws of Alberta [HIA s11(2)(d)].

## Discretionary exception to right of access

A custodian may refuse access to an applicant [HIA s11] if the disclosure could reasonably:

- Be expected to result in immediate and grave harm to the applicant's mental or physical health or safety;
- Be expected to threaten the mental or physical health or safety of another individual;
- Be expected to pose a threat to public safety;
- Lead to the identification of a person who provided health information to the custodian explicitly or implicitly in confidence and in circumstances in which it was appropriate that the name of the person who provided the information be kept confidential; or
- Be expected to prejudice the use or results of particular audits, diagnostic tests or assessments.

## Response Process

Response to the applicant must be made within 30 days of receipt of request unless the time limit has been extended as allowable by law. (HIA s12)

As part of the clinic's response, the applicant shall be told:

- Whether access to the record or partial record is granted or refused.
- If access is granted, where, when, and how access will be given.

If access is refused, the applicant will receive:

- The reasons for refusal and basis of refusal, and
- The name, title, business address and phone number of the clinic's Privacy Officer and that the applicant has a right to request a review of the decision by the Alberta Information and Privacy Commissioner.

A fee may be applied (HIA s67) to formal requests for access to their files by patients, or the custodian may choose to waive the fee. The Health Information Regulation sets out the maximum fees that can be charged for providing access.

A file (disclosure log) shall be kept for each request processed will include:

- All internal and external correspondence, including a copy of the original request from the applicant, any notices sent to the applicant, and any other correspondence from the applicant;
- An unmarked copy of the records retrieved and reviewed in response to a request;
- A copy of the documents released to the applicant; and
- Any other information documenting the request management process.

The privacy officer shall be present if the applicant views the original record in order to answer questions and maintain the integrity of the record. If information is removed from the record before disclosure of the information, the applicant no longer has the option of viewing the original record and will view photocopies of the record.

## Authentication of Recipient

Clinic staff shall take reasonable steps to verify the identity of the individual or authorized representative before allowing access to disclosing health information. This may involve looking at a driver's license or health card.

An authorized representative is any person who can exercise the rights or powers conferred on an individual under applicable privacy legislation [HIA section 104(1)]. This includes the right of access to an individual's health information and the power to provide consent for disclosure of such information.

When an authorized representative requests an individual's health information, and is not known to the attending custodian, proof of authority may be requested. This may involve asking for a copy of such documents as a guardianship order, power of attorney, personal directive or letters of administration for an estate.