



The Health Information Act

At a Glance
For Individuals








Office of the Information
and Privacy Commissioner

Alberta's *Health Information Act* (HIA) was passed in 1999 and was proclaimed on April 25, 2001.

The HIA provides patients with a right to access records containing their health information held by **custodians**. It also provides custodians with rules regarding the collection, use and disclosure of health information.

The term custodian is defined in section 1(1)(f) of the Act. Custodians include:

-  The Minister and Department of Alberta Health and Wellness
-  Any health service provider paid in part or in whole by the Alberta Health Care Insurance Plan
-  Pharmacies and pharmacists regardless of how they are paid
-  Regional Health Authorities and provincial health boards (Alberta Cancer Board and Alberta Mental Health Board)
-  Nursing home operators

In addition to regulating information access, collection, use and disclosure practices of custodians, the HIA also covers the actions of **affiliates**. Affiliates include employees, volunteers, contractors and agencies under contract to the custodian. Some examples of affiliates can include reception and nursing staff at your doctors' office, pharmacy technicians or information desk and food service workers in a hospital.

Ultimately, custodians are responsible for the information collected, used and disclosed by their affiliates.

Access to your health information

The HIA does not eliminate routine methods of access to medical records. Some health care providers will continue to disclose patient records without a formal request under the Act. If you request access to your health records outside the Act and are denied, you may want to consider formally requesting a copy of your records under the HIA.

When making a formal request under the HIA, you can either ask for a copy of your records or you can ask to review the original records. A request can be verbal or in writing. If you are requesting access to your records in writing, you can either use a form that is available from the Office of the Information and Privacy Commissioner or you can simply write a letter to the custodian.

Once a custodian receives a request under the HIA, they generally have 30 days to respond. They may release all or part of the information you have requested. If they are going to withhold information, they must provide you with an explanation as to which section of the HIA allows them to withhold this information. This is referred to as “severing.”

If you disagree with a custodian’s decision to sever information in response to your request, you may ask the Information and Privacy Commissioner to review that decision. You may also approach the Commissioner if the custodian does not respond in 30 days or if you are not satisfied that the custodian has conducted an adequate search for your records.

Who does the HIA not cover?

The *Health Information Act* gives you a right to request access to your health information if it is held by a custodian. If your health service provider is not a custodian under the Act, you do not have a guaranteed right to request access to that information. The easiest way to remember who is a custodian is that a portion of the funding for the service must come from the Alberta Health Care Insurance Plan. The exception to this general rule is pharmacists and pharmacies who are always considered to be custodians regardless of how they are paid.

The following are some examples of traditional health services which are not captured under the HIA.

- 🔑 Dental services paid for by the individual or an insurer
- 🔑 Medical exams or treatments paid for by insurance companies or law firms
- 🔑 Treatments paid for by the WCB
- 🔑 Services which are “uninsured” or “delisted” by Alberta Health Care

As these services are not paid for by Alberta Health Care, the holder of the record is not a custodian. The records resulting from these treatments are not subject to the HIA.

Fees under the HIA

The HIA allows custodians to charge fees for providing an individual with access to their medical records. It stipulates the maximum fees which can be charged for providing copies of records. It also allows custodians to charge fees for supervising an “in-person” review of documents or for the time required to sever information from your request.

A general application fee of \$ 25, payable at the time of request, will cover the basics such as clarifying the request, obtaining consent (if necessary), locating and preparing the records and copying the first 20 pages of records.

If fees beyond the \$ 25 application fee apply to a request, the custodian must provide you with an itemized breakdown of the costs before the work is begun. Work will not commence again until such time as the fee has been paid. If you believe that the custodian is charging fees in excess of those allowed in the HIA, you may request that the Commissioner review the custodian’s decision regarding the application of fees.

Custodians also have the power to grant “fee waivers” under the HIA. This means that custodians can decide not to charge fees if they believe that it is fair or reasonable to do so. If you believe that a fee waiver would be appropriate in your situation, you should write a letter to the custodian requesting a fee waiver and stating the reasons you feel it would be appropriate. In the event that you are not satisfied with the custodian’s response to your request for a fee waiver, you may request that the Commissioner review that decision, also.

Requesting correction of a health record

The HIA allows an individual to request correction of errors or omissions of their health information.

If you believe that there has been an error or omission in your health information, you may request correction of that information by writing to the custodian. Once the custodian receives your request for correction, they have 30 days to respond to you with their decision.

If the custodian agrees to make the correction, written notification of the corrected information must be sent to any person that has received that information within the past year unless you agree that the custodian does not need to do this.

A custodian **may** refuse to make a correction or an amendment to a professional opinion or observation.

If the custodian refuses to make the correction for any reason and you are not satisfied with that decision, you have the right to:

Submit a statement of disagreement of not more than 500 words to be included on your health record

or

Request that the Information and Privacy Commissioner review the decision of the custodian to refuse your request for correction.

Requesting a Review

The Information and Privacy Commissioner can review any decision, act or failure to act of a custodian as it pertains to an individual's request for access to or correction of their health information. It is important to note that the Commissioner does not become involved until you have made a request directly to a custodian.

If you have a concern with the way a custodian has processed your request, you may request that the Commissioner review the custodian's actions or failure to act by writing to the Commissioner at the address on the back of this brochure.








Collection of Health Information

Custodians should collect only information that is needed to provide care.

Information should be collected from the individual who is the subject of the information wherever possible. The HIA spells out some situations in which a custodian can collect information from someone other than the individual.

Use of Health Information














A custodian **may** use health information without consent for the following purposes:

-  Providing health services
-  Determining eligibility for health services
-  Conducting formal investigations
-  Conducting research that has been approved by a research ethics review board
-  Conducting health service provider education
-  Carrying out a purpose required by a law of Alberta or Canada
-  Managing internal operations such as planning, quality improvement, evaluation of service or obtaining payment

Disclosure of Health Information

The HIA gives custodians the ability to disclose information in certain circumstances. While the HIA allows custodians to disclose in these circumstances, it does not require them to do so.

A custodian **may** disclose health information without consent for the following purposes:

-  To another custodian in order to provide health services to the individual
-  To any person who is a continuing care and treatment provider
-  To family members or others with a close personal relationship (in limited circumstances)
-  To health professional bodies for an investigation
-  To researchers who have obtained approval from a research ethics review board
-  If the disclosure is authorized or required by another enactment of Alberta or Canada.
-  To persons acting in the best interest of an incompetent individual
-  To the person's authorized representative under s. 104 of the Act
-  To police when investigating a life threatening emergency to the individual
-  To any person to avert or minimize a risk of imminent danger
-  To a successor custodian when the custodian ceases to practice
-  In response to a court order
-  To another custodian to prevent fraud or abuse of the health care system

A custodian **may** also disclose health information to any person if you have consented to the disclosure.

The Complaint Process

In addition to his powers in relation to access requests, the Information and Privacy Commissioner can investigate complaints that health information has been collected, used or disclosed in contravention of the *Health Information Act*.

The Commissioner has extensive powers to investigate complaints and can require that any record be produced for his examination.

The Commissioner may appoint a member of his staff to conduct an investigation into your complaint. This can result in the results of the investigation being relayed to the parties in a letter, in a formal Investigation Report or, if the issue cannot be resolved to the satisfaction of the parties, by a formal Commissioner's Order.

If you believe that your health information has been collected, used or disclosed in violation of the *Health Information Act*, you may request that the Commissioner investigate your complaint by writing to him at the address below.

If you have questions about the *Health Information Act* or want more information on the Commissioner's Office, please contact:



The Office of the Information
and Privacy Commissioner

410, 9925 – 109 Street

Edmonton, Alberta T5K 2J8

Telephone: (780) 422-6860

Toll-free: 310-0000 then ask for 422-6860

Facsimile: (780) 422-5682

Email: generalinfo@oipc.ab.ca

Website: www.oipc.ab.ca

The Commissioner's office maintains a small library, which the public is welcome to use between 8:15 a.m. and 4:30 p.m., Monday through Friday.