



Province of Alberta

HEALTH INFORMATION ACT

HEALTH INFORMATION REGULATION

Alberta Regulation 70/2001

With amendments up to and including Alberta Regulation 155/2010

Office Consolidation

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(Consolidated up to 155/2010)

ALBERTA REGULATION 70/2001

Health Information Act

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Table of Contents

1	Definitions
2	Custodians designated
2.1	Designating custodian as affiliate
3	Registration information
3.1	Exclusion from definition of health service
4	Child, Youth and Family Enhancement Act
5	Collection of personal health number
6	Electronic consent
7	Disclosure of registration information
7.1	Disclosure of information
7.2	Information manager agreement
8	Security of health information
9	Fees
10	Fees for health information
11	Estimate of fees
12	Payment of fees
13	Applicant excused from paying fee
14	Expiry
15	Coming into force

Schedule

Definitions

1 In this Regulation,

- (a) “Act” means the *Health Information Act*;
- (b) “emergency response dispatch services” means the following dispatch services provided by an emergency response services dispatcher:
 - (i) receiving requests for emergency response services;
 - (ii) in response to a request,

- (A) gathering information,
 - (B) evaluating the request,
 - (C) providing assistance, and
 - (D) dispatching and supporting emergency response services;
- (c) “emergency response services” means services dispatched by an emergency response services dispatcher in response to an emergency and includes ground ambulance services, air ambulance services, fire services and police services;
- (d) “emergency response services dispatcher” means a person who provides emergency response dispatch services and includes 911 operators.

AR 70/2001 s1;155/2010

Custodians designated

2(1) The following panels, committees, boards and individuals are designated as custodians for the purposes of section 1(1)(f)(xiv) of the Act:

- (a) repealed AR 14/2007 s2;
- (b) Claims Reassessment Advisory Committee;
- (c) Hospital Privileges Appeal Board;
- (d) Mental Health Patient Advocate;
- (e) Calgary and South Mental Health Review Panel;
- (f) Edmonton and North Mental Health Review Panel;
- (g) Central Alberta Mental Health Review Panel;
- (h) MS Drug Review Panel;
- (i) Out-of-Country Health Services Appeal Panel;
- (j) Out-of-Country Health Services Committee.

(2) The following health services providers are designated custodians for the purposes of section 1(1)(f)(ix) of the Act:

- (a) regulated members of the Alberta College of Pharmacists;
- (b) regulated members of the Alberta College of Optometrists;

- (c) registered members of the Alberta Opticians Association;
- (d) regulated members of the Alberta College and Association of Chiropractors;
- (e) regulated members of the College of Physicians and Surgeons of the Province of Alberta;
- (f) registered members of the Alberta Association of Midwives;
- (g) registered members of the Alberta Podiatry Association;
- (h) regulated members of the College of Alberta Denturists;
- (i) regulated members of the Alberta Dental Association and College;
- (j) regulated members of the College of Registered Dental Hygienists of Alberta.

(3) The Alberta Rare Diseases Clinical Review Panel is designated as a custodian for the purposes of section 1(1)(f)(xiv) of the Act.

AR 70/2001 s2;14/2007;119/2010;155/2010

Designating custodian as affiliate

2.1(1) A custodian who wishes to become an affiliate of another custodian must, in the form approved by the Minister, apply to the Minister for a designation.

(2) A custodian may not apply under subsection (1) unless the custodian has first obtained written consent from the other custodian to become its affiliate.

(3) On receiving an application described in subsection (1), the Minister may make an order designating the custodian as the affiliate of another custodian if the Minister is of the opinion that it is appropriate to make the order, having regard to

- (a) the public interest,
- (b) the ability of the applicant to provide individuals with reasonable access to their personal health information,
- (c) the ability of the applicant to comply with the Act, and
- (d) whether designating the applicant as an affiliate will improve the efficiency and effectiveness of applying the Act.

(4) An affiliate wishing to resume its duties as a custodian may do so by providing the Minister with written notice in the form approved by the Minister.

AR 119/2010 s3

Registration information

3 The following information, where applicable, relating to an individual is registration information for the purposes of section 1(1)(u) of the Act:

- (a) demographic information, including the following:
 - (i) name, in any form;
 - (ii) signature;
 - (iii) photograph or electronic image of the individual's face for identification purposes;
 - (iv) personal health number or any other unique identification number that is used to identify the individual as eligible for, or a recipient of, a health service;
 - (v) gender;
 - (vi) date of birth;
 - (vii) birth information, including
 - (A) the birth facility, and
 - (B) birth order, in the case of a multiple birth;
 - (viii) marital status;
 - (ix) date of death;
 - (x) treaty status, including band number;
 - (xi) whether the individual is a registrant or a dependant of a registrant under the *Health Insurance Premiums Act*;
- (b) location, residency and telecommunications information, including the following:
 - (i) home, business and mailing addresses, electronic address and telecommunications numbers;

- (ii) health regions, as established under the *Regional Health Authorities Act*, in which the individual resides and previously resided;
- (iii) citizenship or immigration status, including the date on which the individual's current immigration status expires if the individual is not a Canadian citizen or landed immigrant;
- (iv) date of entry into Canada and into Alberta;
- (v) province or country of birth or of last residence;
- (vi) date on which the individual became or expects to become a permanent resident of Canada;
- (vii) in the event the individual is registered as a registrant or dependant under the *Health Insurance Premiums Act* and the individual intends to be temporarily or permanently absent from Alberta,
 - (A) date of departure;
 - (B) destination and intended date of arrival at the destination;
 - (C) forwarding address;
 - (D) intended date of return, where the individual intends to be temporarily absent;
 - (E) purpose of absence;
- (c) health service eligibility information, including the following:
 - (i) whether the individual is registered as a registrant or dependant under the *Health Insurance Premiums Act*;
 - (ii) whether the individual is eligible to receive health services that are directly or indirectly paid for by the Government of Alberta, in full or in part;
 - (iii) whether the individual has elected to opt out of the Alberta Health Care Insurance Plan and the Hospitalization Benefits Plan;
 - (iv) whether the individual is exempt from the requirement to register under the *Health Insurance Premiums Act*;

- (v) whether the individual is exempt from the requirement to pay premiums under the *Health Insurance Premiums Act*;
 - (vi) whether the individual is eligible to receive a reduction or waiver of premiums or charges payable in respect of health services and the level or amount, or both, of that reduction or waiver;
 - (vii) information about any program of a custodian that is related to the information described in subclauses (i) to (vi), including the effective and termination dates of the program and, if applicable, the program name;
- (d) billing information, including the following:
- (i) information about amounts owed by the individual to the custodian;
 - (ii) method of payment;
 - (iii) the individual's account number;
 - (iv) if another person is liable for or will be billed for the amount owed by the individual, that person's name and account number.

Exclusion from definition of health service

3.1 For the purposes of section 1(1)(m) of the Act, the following services are excluded from the definition of health service:

- (a) the review, interpretation or assessment by a health services provider of
 - (i) results from a drug or alcohol test performed on a bodily substance from an individual, but only to the extent necessary or reasonably required to determine the individual's fitness to work,
 - (ii) results
 - (A) from medical, health or biological monitoring of an individual, or
 - (B) from medical or health surveillance of an individual,but only to the extent necessary or reasonably required to protect the health of workers or to determine the individual's fitness to work, or

- (iii) results from a medical or health assessment of an individual, but only to the extent necessary or reasonably required to determine the individual's fitness to work;
- (b) the review, interpretation or assessment of health information about workers collected under the *Occupational Health and Safety Act* by the Director of Medical Services for the purposes of protecting the health and safety of workers;
- (c) an independent medical examination of an individual, or a review of the health information of an individual, by a health services provider who is not involved in the treatment and care of the individual for the purpose of determining benefits or coverage, or both, for insurance purposes;
- (d) services, including parenting psychological assessments, neuro-psychological assessments and individual or group counselling, provided by psychologists to children and families at the request of a director under the *Child, Youth and Family Enhancement Act*;
- (e) the review, interpretation or assessment by a health services provider of results from a drug or alcohol test performed by a laboratory on a bodily substance from an individual at the request of a director under the *Child, Youth and Family Enhancement Act*;
- (f) emergency response dispatch services.

AR 119/2010 s4;155/2010

Child, Youth and Family Enhancement Act

4 Section 4 of the *Child, Youth and Family Enhancement Act* prevails despite the Act.

AR 70/2001 s4;251/2001;8/2005

Collection of personal health number

5(1) In this section, "insurer" means

- (a) an insurer licensed under the *Insurance Act*, and
- (b) the ABC Benefits Corporation.

(2) The following persons are authorized for the following purposes to require an individual to provide the individual's personal health number:

- (a) the Students Finance Board for the purpose of administering student health benefits programs;
- (b) lawyers and insurers for the purpose of enforcing the Crown's right of recovery under Part 5 of the *Hospitals Act*;
- (c) insurers for the purpose of facilitating the handling, assessing and payment of claims for benefits;
- (d) The Workers' Compensation Board for the purpose of facilitating the handling, assessing and payment of claims for benefits;
- (e) ambulance attendants and operators under the *Ambulance Services Act* for the purpose of providing treatment and care to individuals and seeking reimbursement for providing those services from the Alberta Blue Cross Plan;
- (f) the Solicitor General for the purpose of providing health services to an inmate outside of a correctional institution;
- (g) the Minister of Seniors and Community Supports for the purpose of administering the *Seniors Benefit Act*;
- (g.1) the Minister of Seniors and Community Supports for the purpose of administering the Aids to Daily Living Program;
- (g.2) the Minister of Seniors and Community Supports for the purpose of administering the registry established pursuant to section 34(c) of the *Personal Directives Act*;
- (g.3) the Minister of Seniors and Community Supports for the purpose of administering the Assured Income for the Severely Handicapped Program;
- (h) the Minister of Employment and Immigration for the purpose of administering the income and employment programs of the Department of Employment and Immigration;
- (i) persons, other than custodians, who provide health services to individuals for the purpose of seeking reimbursement for providing those services from the Alberta Health Care Insurance Plan.

AR 70/2001 s5;105/2005;212/2005;14/2007;35/2007;
68/2008;196/2008;119/2010

Electronic consent

6(1) In this section, “electronic consent” means a consent provided electronically.

(2) For the purposes of sections 34 and 59 of the Act, an electronic consent or a revocation of an electronic consent is valid only if the level of authentication is sufficient to identify the individual who is granting the consent or revoking the consent, as the case may be.

Disclosure of registration information

7 For the purposes of section 36(c) of the Act, a custodian may disclose individually identifying registration information about an individual without the consent of the individual

- (a) to an ambulance attendant or operator under the *Ambulance Services Act*, or
- (b) to the Minister of Seniors and Community Supports for the purpose of administering
 - (i) the Aids to Daily Living Program, or
 - (ii) the *Seniors Benefit Act*.

AR 70/2001 s7;14/2007

Disclosure of information

7.1 For the purposes of section 46(1)(b) of the Act and health system management, program planning and resource allocation, the Minister or the Department may request a health service provider that dispenses drugs to a patient to provide the following information to the Minister or the Department, as the case may be:

- (a) the name of the patient;
- (b) the gender of the patient;
- (c) the personal health number of the patient;
- (d) the date of birth of the patient;
- (e) the unique product identifier of the drug dispensed;
- (f) the dosage details of the drug dispensed;
- (g) the dispensing details of the drug dispensed;
- (h) the prescription details of the drug dispensed;
- (i) the identification number of the health services provider who prescribed the drug;

- (j) the identification number of the health services provider who dispensed the drug.

AR 14/2007 s4

Information manager agreement

7.2 For the purposes of section 66(2) of the Act, an agreement between a custodian and an information manager must

- (a) identify the objectives of the agreement and the principles to guide the agreement,
- (b) indicate whether or not the information manager is permitted to collect health information from any other custodian or from a person and, if so, describe that health information and the purpose for which it may be collected,
- (c) indicate whether or not the information manager may use health information provided to it by the custodian and, if so, describe that health information and the purpose for which it may be used,
- (d) indicate whether or not the information manager may disclose health information provided to it by the custodian and, if so, describe that health information and the purpose for which it may be disclosed,
- (e) describe the process for the information manager to respond to access requests under Part 2 of the Act or, if the information manager is not to respond to access requests, describe the process for referring access requests for health information to the custodian itself,
- (f) describe the process for the information manager to respond to requests to amend or correct health information under Part 2 of the Act or, if the information manager is not to respond to requests to amend or correct health information, describe the process for referring access requests to amend or correct health information to the custodian itself,
- (g) describe how health information provided to the information manager is to be protected, managed, returned or destroyed in accordance with the Act,
- (h) describe how the information manager is to address an expressed wish of an individual relating to the disclosure of that individual's health information or, if the information manager is not to address an expressed wish of an individual relating to the disclosure of that

individual's health information, describe the process for referring these requests to the custodian itself, and

- (i) set out how an agreement can be terminated.

AR 119/2010 s6

Security of health information

8(1) A custodian must identify, and maintain a written record of, all of its administrative, technical and physical safeguards in respect of health information.

(2) A custodian must designate an individual who is responsible for the overall security and protection of health information in the custody or under the control of the custodian.

(3) A custodian must periodically assess its administrative, technical and physical safeguards in respect of

- (a) the confidentiality of health information that is in its custody or under its control and the privacy of the individuals who are the subjects of that information,
- (b) any reasonably anticipated threat or hazard to the security or integrity of the health information or to the loss of the health information, and
- (c) any unauthorized use, disclosure or modification of the health information or unauthorized access to the health information.

(4) In order to ensure the privacy and confidentiality of health information that is to be stored or used by a person in a jurisdiction outside Alberta or that is to be disclosed to a person in a jurisdiction outside Alberta, the custodian must, prior to the storage, use or disclosure of the information, enter into a written agreement with the person that

- (a) provides for the custodian to retain control over the health information,
- (b) adequately addresses the risks associated with the storage, use or disclosure of the health information,
- (c) requires the person to implement and maintain adequate safeguards for the security and protection of the health information,
- (d) allows the custodian to monitor compliance with the terms and conditions of the agreement, and

- (e) contains remedies to address any non-compliance with or breach of the terms and conditions of the agreement by the other person.

(5) Subsection (4) does not apply to health information about an individual that is used in a jurisdiction outside Alberta solely for the purpose of providing continuing treatment and care to the individual.

(5.1) Subsection (4) does not apply to the following health information about an individual when the health information is disclosed by the Department to a bank, credit union, credit union central, loan corporation, trust corporation or the Alberta Treasury Branches for the purpose of facilitating bill payments or the collection of premiums:

- (a) name, in any form;
- (b) signature;
- (c) home, business and mailing addresses, electronic address and telecommunications numbers;
- (d) personal health number or any other unique identification number that is used to identify the individual as eligible for, or a recipient of, a health service;
- (e) billing information, including the following:
 - (i) information about amounts owed by the individual to the custodian;
 - (ii) method of payment;
 - (iii) the individual's account number;
 - (iv) if another person is liable for or will be billed for the amount owed by the individual, that person's name and account number.

(6) A custodian must ensure that its affiliates are aware of and adhere to all of the custodian's administrative, technical and physical safeguards in respect of health information.

(7) A custodian must establish sanctions that may be imposed against affiliates who breach, or attempt to breach, the custodian's administrative, technical and physical safeguards in respect of health information.

AR 70/2001 s8;119/2010

Fees

9 Where an applicant is required to pay a fee for services provided under Part 2 of the Act, the fee is payable in accordance with sections 10, 11 and 12.

Fees for health information

10(1) An applicant who makes a request for access to a record containing health information may be required to pay a basic fee of \$25 for performing one or more of the following steps to produce a copy of the information:

- (a) receiving and clarifying the request;
- (b) obtaining consent if necessary;
- (c) locating and retrieving the records;
- (d) preparing the record for copying, including removing staples and paper clips;
- (e) preparing a response letter;
- (f) packaging copies for shipping or faxing, or both;
- (g) postage and faxing costs;
- (h) photocopying a record.

(2) Processing of a request will not commence until the basic fee has been paid, if applicable.

(3) In addition to the basic fee, additional fees in accordance with the Schedule may be charged for producing a copy of a record.

Estimate of fees

11(1) An estimate provided under section 67(3) of the Act must set out

- (a) the time and cost required
 - (i) to prepare the record for disclosure, including severing time, and
 - (ii) to retrieve records from another location;
- (b) the cost of copying the record;
- (c) the cost of computer time involved in locating and copying a record or, if necessary, re-programming to create a new record;

- (d) the cost of supervising an applicant who wishes to examine the original record, when applicable;
- (e) the cost of shipping the record or a copy of the record, other than by mail or fax.

(2) An applicant has up to 20 days to indicate if the fee estimate is accepted or to modify the request to change the amount of fees assessed.

Payment of fees

12(1) Processing of a request ceases once a notice of estimate has been forwarded to an applicant and recommences immediately on the receipt of an agreement to pay the fee, and on the receipt of at least 50% of any estimated fee.

(2) The balance of any fee owing is payable at the time the information is delivered to the applicant.

(3) Fees or any part of those fees will be refunded if the amount paid is higher than the actual cost of the service.

Applicant excused from paying fee

13 For the purposes of section 67(4) of the Act, a custodian may excuse an applicant from paying all or part of a fee if in the opinion of the custodian it is fair to excuse payment.

Expiry

14 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on April 30, 2015.

AR 70/2001 s14;354/2003;119/2010

Coming into force

15 This Regulation comes into force on the coming into force of the *Health Information Act*.

Schedule

1 The amount of the fees set out in this Schedule is the maximum amount that can be charged to applicants.

2 The following fees for producing a copy of a record may be charged if the cost of photocopying a record under section 10(1)(h) of this Regulation, calculated at \$0.25 per page, exceeds \$5, and then only the amount that exceeds \$5 may be charged:

(a) photocopies, hard copy laser print and computer printouts	\$ 0.25 per page
(b) paper copies from microfilm or microfiche	\$ 0.50 per page
(c) floppy disks	\$10 each
(d) computer tapes	\$55 each
(e) microfiche (diaz film)	\$ 0.50 each
(f) 16 mm microfilm	\$25 each
(g) 35 mm microfilm	\$32 each
(h) photographs from negative	
4" x 5"	\$10 each
5" x 7"	\$13 each
8" x 10"	\$19 each
11" x 14"	\$26 each
18" x 20"	\$32 each
(i) 35 mm slide	\$ 2 each
(j) audio cassette	\$ 5 each
(k) video cassette:	
1/4", 1/2" or 8 mm - one hour	\$20 each
1/4", 1/2" or 8 mm - two hour	\$25 each
3/4" - 30 minutes	\$18 each
3/4" - one hour	\$23 each
(l) radiology film	\$ 5 each
(m) other media not listed above	actual costs
(n) supervision of applicant's examination of original records	\$ 6.75 per 1/4 hour

- (o) severing time to determine whether a record requires severing, and to review and to identify the parts of the record to be severed:
 - (i) technician time \$ 6.75 per 1/4 hour to maximum of 3 hours
 - (ii) health services provider time \$45 per 1/4 hour to maximum of 3 hours
- (p) producing a record from an electronic record:
 - (i) computer processing actual costs
 - (ii) computer report generation \$10 per 1/4 hour
- (q) other direct costs:
 - (i) charges to retrieve records or to return records, or both, from another location contracted fee or average past costs
 - (ii) courier charges or delivery charges, or both, to send copies to applicant other than by mail or fax actual cost