

PHIA Guidance

Access to Personal Health Information

Purpose

This guidance is intended to assist custodians in receipt of requests for access to personal health information from individuals or their representatives.

An Individual's Right of Access to their Personal Health Information

Under section 52(1) of the **Personal Health Information Act** (PHIA), an individual has a right to access a record containing their personal health information that is in the custody or under the control of a custodian. This access can extend to a representative of the individual as per section 7.

While PHIA establishes a formal framework for access requests, nothing in the Act prevents informal access as outlined in section 59. Where possible, custodians are encouraged to provide access informally, especially at the point of care. For example, if the individual is at an appointment where test results are being discussed and the individual requests a copy of the test results, the custodian should provide a copy at that time if possible.

A custodian can require a request for access to be in writing, unless the individual has limited ability to read or write English or has a disability or condition that impairs their ability to make the request in writing. The request needs to have enough detail to help the custodian identify and locate the record. If the request does not provide enough information, the custodian must offer to assist the individual in making the request.

A custodian may require an individual to provide information to confirm their identity, which can assist in locating the correct record, such as:

- name;
- birth date;
- MCP or other unique identifier(s);
- address; or
- sufficient information to allow for record retrieval with reasonable effort.

If a custodian retires, they are still obligated to provide access to and process correction requests for personal health information until complete custody and control of the record has been passed to another custodian.

Custodians are reminded of their obligations under section 4(3) of PHIA, which states:

- (3) Except as otherwise provided in subsections (4) and (5), a custodian does not cease to be a custodian with respect to a record of personal health information until complete custody and control of the record, where applicable, passes to another person who is legally authorized to hold the record and the duties imposed by this Act and the regulations on a custodian with respect to personal health information shall continue to apply until the passage of custody and control of the record



Timely Response

Custodians must respond within 60 days of receiving a request to access personal health information (section 55). The deadline may be extended by an additional 30 days where:

- meeting the deadline would unreasonably interfere with the operations of the custodian; or
- the information consists of numerous records or locating the information that is the subject of the request cannot be completed within the originally prescribed time limit.

If a custodian extends the original timeframe by an additional 30 days, the custodian must give the individual written notice of the extension, including the reasons for the extension. A custodian must respond to the individual's request as soon as possible and no later than the expiration of the extended time limit.

Possible Outcomes

Access Granted - Where the custodian grants access, the custodian must make the record available to the individual for review and, upon request, provide a copy of the record to the individual and an explanation, where necessary, of any information contained in the record. While custodians are allowed to charge a fee, the fee can be waived by the custodian and cannot exceed the limit established by the Minister.

The Minister has not established a fee schedule under section 57 of PHIA, however OIPC addressed the matter of fees in [Report AH-2012-001](#). Paragraphs 20 and 21 establish a reasonable standard total fee of \$25, identifying a number of tasks that would be included under that fee. It continues to note that, after the first 50 pages, a fee of \$0.25 per page for photocopies may be charged. Paragraph 21 also notes that, "Fees for requests that require the use of specialized equipment or resources can be assessed outside of these recommendations if circumstances warrant."

Record Does Not Exist - The custodian must give written notice to the individual stating that, after reasonable efforts, it has been concluded that the record does not exist or cannot be found.

Access Refused - Section 58 of PHIA discusses why a custodian would refuse access to personal health information. Where the custodian refuses access to the record, in whole or in part, the custodian must provide written notice to the individual stating that access to the record, in whole or in part, is refused, along with reasons for the refusal, and that the individual may appeal the refusal to the Court under Part VII of PHIA or request a review by the Commissioner as per Part VI of PHIA.

Failure to Respond - Should a custodian fail to respond to an access to personal health information request within the legislated timeframe, they will be considered to have refused the request for access and the individual requesting access may appeal that refusal to the Court or request a review by the Commissioner.

Key Takeaways

- Custodians should have policies and procedures on the processing of access requests.
- Reasonable fees may be charged for copies of personal health information.
- Informal disclosures, such as providing a copy of test results during an appointment, are encouraged whenever possible.

Resources

[OIPC PHIA Resources](#) (see green Custodian tab in upper right)
Department of Health and Community Services [PHIA Resource Page](#)

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