

INFORMATION AND PRIVACY

HIA vs. FOIP

A COMPARISON of FOIP and HIA for Staff and Custodians

This website document is a practical guide to Information and Privacy within the Calgary Health Region. It is based on the Information and Privacy policies of the Calgary Health Region and the Information and Privacy legislation of Alberta.

The website document is NOT a substitute for legal or policy advice. Always refer to the specific Calgary Health Region [Information and Privacy policies](#) or contact your [IP Advisor](#) or the [Information and Privacy Office](#) for specific issues.

FOIP	HIA	Remarks
<p>4(1)(c) Quality Assurance</p> <p>FOIP does not apply to a quality assurance record under <i>Alberta Evidence Act</i></p>	<p>1(1)(f) Quality Assurance</p> <p>HIA does not apply to a quality assurance committee under the <i>Alberta Evidence Act</i></p>	
<p>13 Time Extension</p> <p>Public body may extend the time for responding to a request for up to 30 days.</p>	<p>15(1) Time Extension</p> <p>Custodian may extend the time for responding to a request for an additional period of up to 30 days</p>	HIA follows FOIP timelines.
<p>17(1) Invasion of Third Party Privacy</p> <p>Must refuse to disclose personal information to an applicant if disclosure would be an unreasonable invasion of a third party's personal privacy.</p>	<p>11(2)(a) Invasion of Third Party Privacy</p> <p>Must refuse to disclose health information to an applicant if the health information is about an individual other than the applicant, unless the health information was originally provided by the applicant in the context of a health service being provided to the applicant.</p>	
<p>17(2)(a) Consent w/Prescribed Elements</p> <p>May disclose with subject's consent using prescribed elements.</p>	<p>34(1), 34(2) Consent w/ Prescribed Elements</p> <p>May disclose with subject's consent using prescribed elements.</p>	HIA consent elements are more extensive than in FOIP

<p>40(1)(ee) Imminent Danger</p> <p>May disclose only if the public body believes, on reasonable grounds, that the disclosure will avert or minimize an imminent danger to the health and safety of any person.</p>	<p>35(1)(m) Imminent Danger</p> <p>May disclose to any person if the custodian believes, on reasonable grounds, that the disclosure will avert or minimize an imminent danger to the health or safety of any person.</p>	<p>There must be a clear and imminent threat of serious harm or death to an identifiable group or person, which creates a sense of urgency.</p>
<p>17(2)(c), 38(d)(e) Other Acts</p> <p>May disclose if authorized or required by an Act of Alberta or Canada</p>	<p>35(1)(p) Other Acts</p> <p>May disclose if authorized or required by an Act of Alberta or Canada</p>	<p>e.g. Child, Youth and Family Enhancement Act, Mental Health Act, Public Health Act</p>
<p>42 Research</p> <p>May disclose for research purposes, following specified procedures</p>	<p>48 - 56 Research</p> <p>May disclose for research purposes, following specified procedures</p>	<p>HIA has different procedures and conditions for research approval and conduct than FOIP</p>
<p>16(4) Personal Information</p> <p>Nature of personal information that is presumed to constitute an unreasonable invasion of privacy when disclosed</p>	<p>32(1) Non-identifying health information</p> <p>Only non-identifying health information may be disclosed for any purpose.</p>	
<p>17(5) Privacy Test</p> <p>Invasion of privacy "test"</p>	<p>N/A</p>	
<p>18(1), (2) Threat to Health and Safety</p> <p>(1) May refuse to disclose if the disclosure could reasonably be expected to:</p> <ul style="list-style-type: none"> a. threaten anyone else's safety or mental or physical health, or b. interfere with public 	<p>11(1)(a), 47(2) Threat to Health and Safety</p> <p>May refuse to disclose to patient if it could reasonably be expected to:</p> <ul style="list-style-type: none"> i. result in immediate and grave harm to the applicant's mental or physical health or safety, or 	<p>HIA does not have any specific requirement to have a psychiatric or "expert" opinion to withhold from patient requesting own information.</p>

<p>safety.</p> <p>(2) if, in the opinion of a physician, a chartered psychologist or a psychiatrist or any other appropriate expert depending on the circumstance of the case, the disclosure could reasonably be expected to result in immediate and grave harm to the applicant's health or safety.</p>	<ul style="list-style-type: none"> ii. threaten the mental or physical health or safety of another individual, or iii. pose a threat to public safety 	
<p>18(3) Provision of Information - Third Party</p> <p>May refuse to disclose to an applicant information in a record that reveals the identity of an individual who has provided information to the public body in confidence about a threat to an individual's safety or mental or physical health.</p>	<p>11(1)(b) Provision of Information - Third Party</p> <p>May refuse to disclose if it could reasonably 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.</p>	<p>HIA provision much broader - only need "appropriate circumstances", not necessarily a threat.</p>
<p>20(1)(a) Law Enforcement</p> <p>May refuse disclosure harmful to law enforcement matter</p>	<p>N/A</p>	
<p>26 Standardized Testing</p> <p>May refuse to disclose details, techniques, or procedures of diagnostic tests or assessments, standardized tests, including intelligence tests, if disclosure could reasonably be expected to prejudice the use or results of....</p>	<p>11(1)(e) Standardized Testing</p> <p>May refuse to disclose details, techniques, or procedures of diagnostic tests or assessments, standardized tests, including intelligence tests, if disclosure could reasonably be expected to prejudice the</p>	

diagnostic tests or assessments.	use or results of ...diagnostic tests or assessments.	
30 Third Party Notification <i>Must</i> notify third parties if considering disclosure of their information under s.17	N/A	No third party notice provisions in HIA
32(1) Risk of Significant Harm <i>Must</i> disclose to inform of risk of significant harm to public or individuals or is clearly within the public interest, with notice	35(1)(m) Aversion of Imminent Danger May disclose to any person if the custodian believes, on reasonable grounds, that the disclosure will avert or minimize an imminent danger to the health or safety of any person	HIA does not contain the public interest or duty to inform "override" of FOIP, which requires disclosure - the closest is this discretionary disclosure provision, with no notice
40(1)(c) Disclosure of Personal Information May disclose to another Calgary Health Region employee, contractor for consistent purposes that have direct and reasonable connection and is necessary for performing statutory duties of Calgary Health Region	34(1), 35(1) Disclosure of Health Information May disclose with or without consent.	HIA lists specific disclosures that may be without consent.
39(1)(b), 40(1)(c) Disclosure with Consent May disclose with subject's consent using prescribed elements	34(1), 34(2) Disclosure with consent May disclose with subject's consent using prescribed elements	HIA consent elements are more extensive than in FOIP
40(1)(g) Disclosure to comply with legal order May disclose to comply with subpoena, warrant or court order	35(1)(i) Disclosure to comply with legal order May disclose to comply with subpoena, warrant or court order	
40(1)(h) Disclosure to Perform Duties	35(1)(a), 27(1)(2) Disclosure to Another Custodian	HIA does not allow disclosure to non-health public bodies, e.g., schools,

<p>May disclose to Calgary Health Region employees, contractors to allow performance of their duties and functions</p>	<p>May disclose to another custodian for specific purposes</p>	<p>even if the programs are integrated; however, does allow disclosure to any person providing continuing care</p>
<p>40(1)(k) Fines or Debts Owning</p> <p>May disclose if needed to collect fines or debts owing</p>	<p>36(b) Fines or Debts Owning</p> <p>May disclose registration information only to collect fines or debts owing</p>	
<p>40(1)(l) Eligibility for Program</p> <p>May disclose to determine sustainability or eligibility for a program or benefit</p>	<p>27(1)(b), 35(1)(a) Eligibility for Program</p> <p>May disclose to another custodian to determine or verify eligibility of an individual to receive a health service.</p>	
<p>40(1)(m) Audits</p> <p>May disclose to auditor or any other prescribed person or body for audit purposes</p>	<p>35(1)(f) Audits</p> <p>May disclose to auditor if information is destroyed after audit and no disclosure except for audit purposes</p>	<p>HIA has more specific conditions for disclosure</p>
<p>40(1)(n) Members of Legislative Assembly</p> <p>May disclose to an MLA in an investigation requested by the patient</p>	<p>35(1)(l) Members of Legislative Assembly</p> <p>May disclose to an Officer of the Legislature if information is necessary to perform their duties</p>	<p>HIA allows much more discretion to disclose to MLA</p>
<p>40(1)(p) Archival Preservation</p> <p>May disclose to PAA or archives for permanent preservation</p>	<p>38 Archival Preservation</p> <p>May disclose to PAA or other archives under FOIP for permanent preservation and historical research.</p>	
<p>40(1)(q) Law Enforcement Investigation</p> <p>May disclose to law enforcement agency in the course of an investigation</p>	<p>35(1)(j) Law Enforcement Investigation - Life Threatening</p> <p>May disclose to police only for investigating a life-threatening personal injury</p>	<p>HIA very restrictive</p>

	to the individual, if not against express wishes of individual	
<p>40(1)(s) Disclosure to Next of Kin</p> <p>May disclose to contact spouse, relative, or friend of injured, ill or deceased</p>	<p>35(1)(d) Disclosure to Next of Kin</p> <p>May disclose to contact spouse, relative, or friend of injured, ill or deceased, in not against the express wishes of individual</p>	
<p>40(1)(r) Disclosure for Court Proceeding or Quasi-Judicial Body</p> <p>May disclose to a court or quasi-judicial proceeding in which Calgary Health Region is a party</p>	<p>35(1)(h) Disclosure for Court Proceeding or Quasi-Judicial Body</p> <p>May disclose to a court of quasi-judicial proceeding in which Calgary Health Region is a party</p>	
<p>40(1)(x) Managing Personnel</p> <p>May disclose for the purpose of managing personnel</p>	<p>35(1)(c) Human Resource Management</p> <p>May disclose to another custodian for human resource management</p>	
<p>40(1)(aa) Supervision in correctional Authority</p> <p>May disclose for the purpose of supervising an individual under correctional authority</p>	<p>35(1)(e) Provision of Health Care to Inmate</p> <p>May disclose to official of penal or detention facility for the purpose of providing health care to an inmate only</p>	HIA allows disclosure only for health purposes
<p>40(1)(cc) Disclosure of Deceased Person's Information</p> <p>May disclose to an relative of a deceased individual, at the discretion of Calgary Health Region using privacy test</p>	<p>35(1)(d.1) Disclosure of Deceased Person's Information</p> <p>May disclose to family members or others believed to have a close personal relationship if information relates to circumstances surrounding death or to health services recently received by an individual, and disclosure is not</p>	

	<p>contrary to individual's expressed wishes</p> <p>Also 104(1)(d)</p> <p>Must disclose to personal representative if exercising right relates to administration of individual's estate</p>	
<p>84 Excised Rights</p> <p>Description of persons or conditions under which an individual's right may be exercised by others</p>	<p>104 Excised Rights</p> <p>Description of persons or conditions under which an individual's rights may be exercised by others</p>	<p>HIA provides more clarity on conditions for access to records of a minor</p>