

Code of Procedure

for Access and Correction Complaints under
the *Personal Health Information Protection Act, 2004*



Information and Privacy Commissioner,
Ontario, Canada

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Commissioner
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Part I — Introduction

1. Application

- 1.01 This Code applies to complaints concerning requests for access to and correction of personal health information under the *Personal Health Information Protection Act, 2004*.

2. Purpose and Interpretation

- 2.01 This Code is to be broadly interpreted in the public interest in order to secure the most just, expeditious and least expensive determination on the merits of every complaint.
- 2.02 Where specific procedures are not set out in this Code, the IPC may do whatever is permitted by law to enable it to effectively and completely mediate or adjudicate the complaint and to ensure compliance with the provisions of any order.
- 2.03 A failure to follow any procedure in this Code does not for that reason alone render a complaint, or any step in a complaint, invalid.
- 2.04 The IPC may in its discretion depart from any procedure in this Code where it is just and appropriate to do so.
- 2.05 The IPC may exercise any of its powers and perform any of its duties on its own initiative or at the request of a party.
- 2.06 The IPC may issue practice directions and rulings relating generally to complaints, at any time, including before or during any complaint.

3. Definitions

- 3.01 In this Code, the following definitions apply:

Act	The <i>Personal Health Information Protection Act, 2004</i> .
Adjudication Stage	The third of three main stages of the complaint process in which an Adjudicator conducts a review.
Adjudicator	The Commissioner, the Assistant Commissioner or any other person employed by the IPC to whom the Commissioner has delegated the power to conduct a review.

Analyst	A person employed by the IPC who gathers preliminary information and screens complaints.
Complainant	A person who makes a complaint about a decision of a custodian concerning a request under the <i>Act</i> .
Custodian	A health information custodian (see “Health Information Custodian” below).
Deemed Refusal Complaint	A complaint in which the sole issue is whether the custodian has responded to a request within the time frame required by the <i>Act</i> .
Failure to Provide Access Complaint	A complaint in which the sole issue is whether the custodian has failed to provide access to records in accordance with its decision to grant access.
Health Information Custodian	An individual or organization subject to the <i>Act</i> , also referred to as a “Custodian.”
Intake Stage	The first of three main stages of the complaint process in which the IPC screens a complaint and either dismisses it or streams it to a later stage of the process.
IPC	The office of the Information and Privacy Commissioner of Ontario.
Mediation Stage	The second of three main stages of the complaint process in which a Mediator investigates the circumstances of a complaint and attempts to effect a settlement of the issues.
Mediator	A person employed by the IPC who conducts mediation.
Mediator’s Report	A document prepared by a Mediator outlining background information and any issues in the complaint that are settled or outstanding.
Notice of Review	A document prepared by the IPC setting out the issues in a complaint and inviting representations on those issues.
Order	A decision of an Adjudicator disposing of some or all of the issues in a complaint.
Party	An individual or organization with a direct interest in a complaint, including the complainant, the custodian and any affected person notified by the IPC.

Registrar	A person employed by the IPC who receives, screens and streams complaints.
Representations	The documents, other evidence and/or arguments a party provides to an Adjudicator in a review.
Request	The letter or form sent to a custodian by a person seeking access to a record or correction of personal health information under the <i>Act</i> .
Review	A process in which the IPC reviews the issues in a complaint and disposes of some or all of the issues by making an order.
Screening	A process in which the IPC reviews a complaint and decides whether to dismiss it or stream it to a later stage of the process.
Streaming	A process for a complaint not dismissed at the Intake stage in which the IPC decides the next stage of the process to which the complaint should be advanced.

Part II - The Complaint Process

4. Initiating a Complaint

General 4.01 A person who has made a written request under the *Act* may make a complaint about any decision of the custodian concerning the request.

4.02 Where a person has made a request, and the custodian does not give the person notice of its decision within the time frame required by the *Act*, the custodian is deemed to have refused the request, and the person may make a complaint about the deemed refusal.

Notice of complaint 4.03 A person who wishes to make a complaint shall send written notice to the Registrar, by way of a completed Access/Correction Complaint Form (see Practice Direction 4) or in any other written form, within 6 months after the custodian has given notice of its decision. The notice of complaint should include:

- (a) the complainant's name, address and telephone number to assist the IPC in making contact;
- (b) the custodian's name, address and the file number assigned by the custodian to the request, if any;
- (c) a copy of the custodian's decision;
- (d) a copy of the request;
- (e) a brief explanation of the basis for the complaint; and
- (f) a statement of whether or not complainant consents to the following:
 - 1. the IPC inspecting a record of, requiring evidence of, or inquiring into, his or her personal health information as reasonably necessary for the purpose of processing the complaint;
 - 2. the complainant's name being disclosed to the health information custodian in order to be able to investigate the access/correction complaint; and
 - 3. whether the complainant consents to the written complaint (or the complaint form), and all attachments, being provided to the health information custodian.

Counsel or agent 4.04 Counsel or an agent may make a complaint on behalf of a complainant. The IPC may require the complainant to complete a form authorizing counsel or the agent to act as such for the purpose of the complaint.

5. Intake Stage

- Screening** 5.01 The IPC screens all complaints received. The IPC may dismiss a complaint which is not within its jurisdiction or which, in its view, does not warrant further action.
- 5.02 Before deciding whether to dismiss a complaint at this stage, the IPC may invite submissions from the complainant.
- 5.03 The IPC will give the complainant and the custodian written notice of any decision to dismiss a complaint at this stage.
- Streaming** 5.04 Where a complaint is not dismissed during screening at the Intake stage, the IPC will either dispose of the issues in the complaint at the Intake stage, or stream it to the Mediation stage or the Adjudication stage.
- Notice** 5.05 Where a complaint is not dismissed at the Intake stage, the IPC will notify the custodian of the complaint.

6. Mediation Stage

- Mediation** 6.01 At mediation, a Mediator may contact the parties, investigate the circumstances of the complaint, and attempt to:
- (a) effect a settlement of all of the issues in the complaint; or
 - (b) if all of the issues in the complaint cannot be settled, narrow the issues that proceed to the Adjudication stage.
- Mediator's Report** 6.02 At the end of mediation, the Mediator may prepare a Mediator's Report and send a copy to the parties.
- Complaint settled** 6.03 Where a complaint is settled in the Mediation stage, the Mediator will close the complaint.
- Complaint not settled** 6.04 Where a complaint is not settled in the Mediation stage, if a party believes that the Mediator's Report contains an error or omission, the party may ask the Mediator to amend the report. Such a request shall be made in writing within 10 days after the report is sent. The Mediator may amend the report on the request of a party or on his or her own initiative. Where the report is not amended, the Mediator will advise the relevant party, in writing, of his or her decision regarding the request. Where the report is amended, the Mediator will send a copy of the amended report to the parties.
- 6.05 Where a complaint is not settled in the Mediation stage, the IPC will stream it to the Adjudication stage. In that event, the Mediator's Report will be provided to the Adjudicator.

7. Adjudication Stage

- General* 7.01 At the Adjudication stage, an Adjudicator may conduct a review to dispose of some or all of the issues in the complaint.
- No review* 7.02 The Adjudicator may decide not to conduct a review if he or she decides, after inviting representations from the complainant on this issue, that no useful purpose would be served by proceeding, and will notify the parties in writing of such a decision.
- Notice of Review* 7.03 The Adjudicator begins the review by sending a Notice of Review to the party bearing the initial onus (the first party), as determined by the Adjudicator, inviting representations on the issues in the complaint.
- 7.04 Upon receipt of the first party's representations, the Adjudicator may, if he or she considers it necessary, send either the same or a modified Notice of Review to the second party, inviting representations on the issues in the complaint.
- 7.05 Upon receipt of the second party's representations, the Adjudicator may, if he or she considers it necessary, send a modified Notice of Review to the first party, inviting further representations in reply.
- 7.06 In a complaint involving an affected person or persons, the Adjudicator may send a Notice of Review to the affected person or persons when their interests are engaged.
- Sharing of representations* 7.07 The Adjudicator may provide some or all of the representations received from a party to the other party or parties in accordance with Practice Direction number 3.
- Time for submitting representations* 7.08 A party who chooses to submit representations to the IPC shall do so by the date specified in the Notice of Review. A party seeking a time extension of seven days or less may make this request to the IPC in writing or by telephone. A party seeking a time extension in excess of seven days shall make this request in writing, in accordance with the procedure in section 16.
- 7.09 If any party does not submit representations by the date specified in the Notice of Review, or such other date as may be determined by the IPC in response to a request for a time extension, the review may proceed and an order may be issued in the absence of such representations.
- Decision or Order* 7.10 Unless the complaint is settled or terminated for some other reason, the Adjudicator will issue a decision or an order, disposing of some or all of the issues in the complaint.

Part III - Special Types of Complaints

8. Deemed Refusal and Failure to Provide Access Complaints

General 8.01 Deemed Refusal and Failure to Provide Access Complaints are handled by an Analyst who may attempt to effect a settlement of the issues in the complaint and, if the complaint is not settled, may conduct a review and make an order disposing of the issues in the complaint.

Deemed Refusal and Failure to Provide Access Complaint 8.02 In a Deemed Refusal or Failure to Provide Access Complaint, the Analyst will send a Notice of Review to the parties on receipt of the complaint. If the complaint is not settled within a period of up to 14 days after the notice is sent (as specified in the notice), the Analyst may make an order disposing of the issues in the complaint without hearing further from the parties.

Part IV - General

9. Providing Records to the IPC

- 9.01 Where the complainant consents, or the IPC makes a determination under section 60(13) of the *Act* that copies of records are required to process a complaint, the IPC may send a written request for the records to the custodian, including the date by which the records are to be received. Where a custodian fails to provide the records, or any of them, within the specified time, the IPC may issue an order requiring the custodian to produce the records to the IPC, without inviting representations from any party on this issue.
- 9.02 Where the IPC determines that it is required in order to process a complaint, the IPC may issue an order requiring the custodian to number the records, number the pages of records, provide legible copies, provide highlighted copies, or provide a detailed index indicating the date of creation of each record, a brief description of the record, the extent to which it was disclosed, and what exemption has been claimed.

10. Other Individuals or Organizations

- 10.01 The IPC may notify and invite representations from any individual or organization that may be able to present useful information to aid in the disposition of a complaint.

11. Additional Information in a Review

- 11.01 During a review, the Adjudicator may request additional information from any party, either orally or in writing.

12. Confirmation of Settlements and Notice of Orders

- 12.01 The IPC will give the parties written confirmation of any settlement of a complaint and written notice of any order or decision made under the *Act*.

13. Stays

- 13.01 An Adjudicator may stay any provision of an order, at any time, on the request of a party or on his or her own initiative.

13.02 Before deciding whether to stay a provision of an order, the Adjudicator may notify and invite representations from the parties.

14. Reconsideration

Grounds for reconsideration

- 14.01 The IPC may reconsider an order or other decision where it is established that:
- (a) there is a fundamental defect in the adjudication process;
 - (b) there is some other jurisdictional defect in the decision;
 - (c) there is a clerical error, accidental error or omission or other similar error in the decision;
 - (d) new facts relating to the complaint come to the IPC's attention or there is a material change in circumstances relating to the complaint

Initiating a reconsideration

14.02 The IPC may reconsider a decision at the request of a person who has an interest in the complaint or on the IPC's own initiative.

14.03 A reconsideration request shall be made in writing to the individual who made the decision in question. The request must be received by the IPC:

- (a) where the decision specifies that an action or actions must be taken within a particular time period or periods, before the first specified date or time period has passed; or
- (b) where decision does not require any action within any specified time period or periods, within 21 days after the date of the decision.

14.04 A reconsideration request should include all relevant information in support of the request, including:

- (a) the relevant order and/or complaint number
- (b) the reasons why the party is making the reconsideration request;
- (c) the reasons why the request fits within grounds for reconsideration listed in section 14.01;
- (d) the desired outcome; and
- (e) a request for a stay, if necessary.

Effect of reconsideration

14.05 A reconsideration request does not automatically stay any provision of a decision or order. A decision must be complied with within the specified time period unless the IPC or a court directs otherwise.

14.06 A reconsideration request does not preclude a person from seeking other legal remedies that may be available.

Adjudicator 14.07 The individual who made the decision in question will respond to the request, unless he or she for any reason is unable to do so, in which case the IPC will assign another individual to respond to the request.

Notice 14.08 Before deciding whether to reconsider a decision, the IPC may notify and invite representations from the parties.

Decision 14.09 Where the IPC decides to grant or decline a reconsideration request, the IPC will make a written decision in the form of a letter or order and send a copy to the parties.

14.10 Where the IPC decides to grant a reconsideration request, the IPC may rescind or vary the decision or may make a further decision or order.

15. “On Hold” and Abandoned Complaints

15.01 The IPC may place a complaint “on hold” for later re-activation.

15.02 Where a complainant has not responded within 21 days to attempts by the IPC to contact him or her in writing or by telephone, the IPC may decide to treat the complaint as abandoned, in which case the IPC will notify the parties in writing that the complaint is closed.

16. Requests to Vary the Process

16.01 The IPC may waive or vary any of the procedures prescribed by or under this Code, including any requirement or time period specified in any written communication from the IPC, if it is of the opinion that it would be advisable to do so in order to secure the just and expeditious determination of the issues.

16.02 A party who wishes the IPC to waive or vary any of the procedures prescribed by or under this Code shall submit a request for such variance in writing to the Adjudicator or, where no Adjudicator has been assigned, to the Registrar.

16.03 A request to vary the process should include all relevant information in support of the request, including:

- (a) the relevant complaint number;
- (b) the reasons why the party is making the request to vary the process;
- (c) the reasons why the party will suffer prejudice if the request is not granted; and
- (d) the reasons why the prejudice under paragraph (c) outweighs any prejudice to the other party or parties to the complaint.

- 16.04 Before deciding whether to vary the process, the IPC may notify and invite representations from the parties.
- 16.05 Where the IPC decides to grant or decline a request to vary the process, the IPC will make a written decision in the form of a letter or order and send a copy to the parties.

17. Time

- 17.01 Where this Code contains a time frame for doing an act:
- (a) the days are calculated as calendar days;
 - (b) the days are counted by excluding the day on which the first act is done and including the day on which the second act is done; and
 - (c) where the time for doing an act expires on a day when the IPC's offices are closed, the act may be done on the next day that the IPC's offices are open.

Practice Directions



Number 1
December 2005

Ann Cavoukian, Ph.D.
Information and Privacy Commissioner/Ontario

PHIPA Practice Direction

Clarifying Access Requests

Individuals who request access to information under the *Personal Health Information Protection Act, 2004* (the *Act*) do not always know the type of records a health information custodian has about them, or how those records are organized. For this reason, clarification is often required.

The purpose of this issue of *PHIPA Practice Direction* is to remind health information custodians of the legislative requirements regarding the clarification of requests; and to emphasize that clarification will make things easier for everyone concerned – the health information custodian; requesters, complainants and the Information and Privacy Commissioner/Ontario (IPC).

It is vital that health information custodians have a clear understanding of the nature and scope of requests in order to process them efficiently and to satisfy the requester's right of access.

Requirement for Requesters

The *Act* specifies that a person seeking access to his or her own personal health information must provide sufficient detail to enable the health information

custodian to identify and locate the record with reasonable efforts.

Requirement for Health Information Custodians

The *Act* also states that if the request does not contain sufficient detail to enable the health information custodian to identify and locate the record with reasonable efforts, the health information custodian shall offer assistance to the person requesting access in reformulating the request.

Manner of Clarification

In most cases, it would be more expeditious and productive to have the employee who is most knowledgeable about the requested records communicate directly with the requester.

While a letter may be appropriate in some instances, speaking with a requester also offers an invaluable opportunity to provide explanations, answer questions, narrow the request (where appropriate) and resolve issues on the spot.



‘Clarify’ or ‘Narrow?’

It is important that the health information custodian understand the difference between a clarified request and a narrowed request. To “clarify” is to make clear what the requester is seeking. For example, a requester wants “a test result,” but has provided no further information. Clarification is needed.

To “narrow” is to reduce the scope of the request, i.e., decreasing the number of records requested.

Standard Questions

The following are some typical questions that may be used by a health information custodian as it attempts to clarify a request:

Are you interested in any particular records? Please elaborate.

Do the records you are requesting involve a specific incident? Please elaborate.

Were the records you are interested in created during a specific time period? (For example, “all information related to X, between April 1, 2004 and March 31, 2005.”)

Do the records you are requesting relate to the services of a particular health care provider or department?

Have you already spoken with a specific department or with particular individuals from our organization? Can you name the branch or individuals? (This may help avoid a duplication of effort.)

More Information

Regarding the clarification of requests, the important provisions are sections 52 and 53 of the *Act*.

An Access/Correction request form is available on the IPC’s website at www.ipc.on.ca.

PHIPA Practice Direction

is published by the **Office of the Information and Privacy Commissioner/Ontario**.

If you have any comments regarding this newsletter, wish to advise of a change of address, or be added to the mailing list, contact:

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Number 2
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Information and Privacy Commissioner/Ontario

PHIPA Practice Direction

Drafting a Letter Responding to a Request for Access to Personal Health Information

When a health information custodian receives a request for access to personal health information under the Personal Health Information Protection Act, 2004 (the *Act*), the custodian is required to respond, in writing, within 30 days (subject to the ability to extend the time for response for another 30 days provided the requirements in section 54(3) and (4) of the *Act* are satisfied).

The response must indicate whether access to all or part of the personal health information will be granted. When access is denied, the response letter should provide the requester with a sound understanding of why some or all of the personal health information has been denied.

If a thorough explanation is provided, the chances of a complaint being filed with the Information and Privacy Commissioner/Ontario (the IPC) may be greatly reduced. A complaint can be a time-consuming process for a health information custodian, involving intake, mediation and/or a review. It is therefore in the health information custodian's best interest to ensure the response letter is

drafted with care and in accordance with legislative requirements.

Where the requester proceeds with a complaint, a proper response letter is essential to the efficient processing of the complaint. If the original response letter is incomplete, the health information custodian will be required to take time to produce a proper response letter. Drafting a complete response letter at the outset not only saves the health information custodian time at the start of the complaint process, but speeds up the process for all parties involved.

To assist you in preparing a response letter that meets the legislative requirements, please follow these two key steps:

1. Reviewing the Record(s)

The personal health information requested may involve several records. Each record must be carefully reviewed to determine whether:

- (a) access will be granted or denied to the whole record; or



- (b) access will be granted to the record with a part or parts severed.

During this review, reasons for denying access to a record or any part of it must be clearly established. These explanations can then be conveyed to the requester in the response letter.

2. Drafting Procedure

A sample response letter refusing access to records is attached, along with a response letter checklist. The following is a description of the components of a proper response letter:

- (a) When access is being given, make the record available to the individual for examination or, upon request, provide a copy of the record to the individual and if reasonably practical, an explanation of any term, code or abbreviation used in the record; and/or
- (b) Where the records do not exist, include a statement that, after a reasonable search, you have concluded that the record does not exist or cannot be found; and/or
- (c) Where the record exists and access is being refused in whole or in part, the specific provision of the *Act* under which access is refused, other than 52 (1) (c), (d) or (e) of the *Act*, and the reason the provision applies; and/or
- (d) Where refusing to confirm or deny the existence of records subject to sections 52 (1) (c), (d) or (e) of the *Act*, indicate

that you are refusing to confirm or deny the existence of the record; and/or

- (e) Provide the requester with information about fees and the waiving of fees in connection with the request.
- (f) Include a paragraph informing the requester that he/she can file a complaint regarding the response to the IPC within six months. Include the mailing address for the IPC. Let the requester know that a complaint should be accompanied by:
- a copy of the original request for personal health information;
 - the file number assigned by the health information custodian to the request (if available); and
 - a copy of the response letter.

The following additional steps may be taken for exceptional situations where an extremely large number of records are being denied, except where refusing to confirm or deny the existence of records subject to 52 (1) (c), (d) or (e) of the *Act*:

- (g) Include an index of records with the response letter.

The IPC has found that providing a list of records satisfies some complainants who decide not to proceed further with a complaint. Such individuals initiate their requests for the sole purpose of finding out whether a specific record is or is not contained in the personal health information they wish to access;



- (h) Assign a document number to each record and provide a general description of each record. The description should provide enough detail so that the requester has an understanding of the type of personal health information contained in it;
- (i) For each record, indicate whether access has been refused or granted for the whole record or whether access has been granted with a part or parts severed;

Where one record has several parts severed, the index may list each page separately. If there is more than one severance on a page of the record, each severance should be dealt with separately;

- (j) For each record or part of a record that is refused, the specific provision of the *Act* under which access is refused.

To assist the requester, attach copies of the sections of the *Act* that are cited;

- (k) For each record or part of a record that is refused, explain why the provision applies to the record. This explanation, along with the general description of the record, should enable the requester to understand why the personal health information cannot be disclosed.

More Information

The specific statutory obligations of health information custodians in this regard are more specifically set out in sections 54 and 55 of the *Personal Health Information Protection Act, 2004*.

An Access/Correction request form and an Access/Correction complaint form are available on the IPC's website at www.ipc.on.ca.

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Checklist for a Letter Responding to a Request for Access to Records Containing Personal Health Information

- When access is being given, make the record available to the individual for examination or, upon request, provide a copy of the record to the individual, and if reasonably practical, an explanation of any term, code or abbreviation used in the record; and/or
- Where the records do not exist, include a statement that, after a reasonable search, you concluded that the record does not exist or cannot be found; and/or
- Where the record exists and access is being refused in whole or in part, the specific provision of the *Act* under which access is refused, other than 52 (1) (c), (d) or (e) of the *Act*, and the reason the provision applies; and/or
- Where refusing to confirm or deny the existence of any record(s) subject to sections 52 (1) (c), (d) or (e) of the *Act*, indicate that you are refusing to confirm or deny the existence of the record; and/or
- Provide the requester with information about the fees and the waiving of fees in connection with the request.
- Include a paragraph informing the requester that he/she can file a complaint regarding the response to the IPC within six months. Include the mailing address for the IPC. Let the requester know that a complaint should be accompanied by:
 - a copy of the original request for personal health information;
 - the file number assigned by the health information custodian to the request (if available); and
 - a copy of the response letter.

The following additional steps may be taken for exceptional situations where an extremely large number of records are being denied, except where refusing to confirm or deny the existence of records subject to 52 (1) (c), (d) or (e) of the *Act* :

- Include an index of records with the response letter. The IPC has found that providing a list of records satisfies some complainants who decide not to proceed further with a complaint. Such individuals initiate their requests for the sole purpose



of finding out whether a specific record is or is not contained in the personal health information they wish to access;

- Assign a document number to each record and provide a general description of each record. The description should provide enough detail so that the requester has an understanding of the type of personal health information contained in it;
- For each record, indicate whether access has been refused or granted for the whole record or whether access has been granted with a part or parts severed;
- Where one record has several parts severed, the index may list each page separately. If there is more than one severance on a page of the record, each severance should be dealt with separately;
- For each record or part of a record that is refused, the specific provision of the *Act* under which access is refused;
- To assist the requester, attach copies of the sections of the *Act* that are cited;
- For each record or part of a record that is refused, explain why the provision applies to the record. This explanation, along with the general description of the record, should enable the requester to understand why the personal health information cannot be disclosed.

Feel free to copy this list for your day-to-day reference.



Sample Response Letter

Final Response: Partial Access Granted (No Fees Involved)

July 25, 2005

PERSONAL & CONFIDENTIAL

Ms. Jane Public
123 Your Street
Your Town, Ontario
X1Y 2Z3

Dear Ms. Public,

Re: Request No. 95-001

Thank you for your letter which was received by our office on June 25, 2005.

The following is a response to your request for personal health information made under the *Personal Health Information Protection Act, 2004* (the *Act*).

You requested a copy of your records relating to your discharge from Your Town Hospital on March 1, 2005. You also requested a copy of a letter that you believe was sent from Dr. Jones, of Your Town Hospital, to your family physician on March 1, 2005, indicating that you should not have been discharged from the hospital. Access to a number of these records is being granted in full, while exemptions are being claimed for others.

I am enclosing copies of records to which you have been granted access. Where only partial access has been granted, we have severed (not released) the exempted portions. I have also enclosed passages from the *Act* to explain why those exemptions have been applied.



A legal opinion has been denied in full since the information in the record is subject to a legal privilege that restricts its disclosure pursuant to section 52(1)(a) of the *Act*.

After a reasonable search, I have concluded that a letter from Dr. Jones to your family physician as you described, does not exist.

Section 54 of the *Act* authorizes charging fees in connection with requests for access to personal health information. In this case, fees could be charged for photocopying. However, due to the limited number of pages, the fee is being waived as authorized by section 54(12) of the *Act*.

You may make a complaint about this response within six months of receiving this letter by writing to the Registrar at the Information and Privacy Commissioner/Ontario, 2 Bloor Street East, Suite 1400, Toronto, Ontario, M4W 1A8; telephone: 416-326-3333 or toll free 1-800-387-0073.

If you decide to make a complaint, please provide the Commissioner's office with the following:

- a copy of the original request for information you sent;
- the file number listed at the beginning of this letter;
- a copy of this response letter; and
- the reasons why you believe the records exist (if the response was that no records exist).

Yours truly,

Dr. Smith
Chief Privacy Officer
Your Town Hospital

Encl.



Sample Index of Records - May be used for extremely large records.

Doc No.	General Description	Page / Para No.	Release Yes/No	Section(s) Applied	General Comments
1	Legal opinion dated July 1, 2005 from Jim Connors, legal counsel to Dr. Smith, regarding injury while in hospital. (2 pages)	All	N	52 1(a)	the information in the record is subject to a legal privilege that restricts its disclosure
2	Discharge Summary (5 pages)	All	Y		
3	Notes to chart by Dr. Jones (3 pages)	All	Y		



Number 3
October 2009

Ann Cavoukian, Ph.D.
Information and Privacy Commissioner,
Ontario, Canada

PHIPA Practice Direction

Sharing of Representations

Application

1. This Practice Direction applies to a review inquiry conducted in the Adjudication stage under section 7 of the Code of Procedure.

General

2. The Adjudicator may provide representations received from a party to the other party or parties, unless the Adjudicator decides that some or all of the representations should be withheld.

Request to withhold representations

3. A party providing representations shall indicate clearly and in detail, in its representations, which information in its representations, if any, the party wishes the Adjudicator to withhold from the other party or parties.
4. A party seeking to have the Adjudicator withhold information in its representations from the other party or parties shall explain clearly and in detail the reasons for its request, with specific reference to the following criteria.

Criteria for withholding representations

5. The Adjudicator may withhold information contained in a party's representations where:
 - (a) disclosure of the information would reveal the substance of a record claimed to be exempt; or
 - (b) the information would be exempt if contained in a record subject to the *Act*; or
 - (c) the information should not be disclosed to the other party for another reason.
6. For the purpose of section 5(c), the Adjudicator will apply the following test:
 - (i) the party communicated the information to the IPC in a confidence that it would not be disclosed to the other party;
 - (ii) confidentiality is essential to the full and satisfactory maintenance of the relation between the IPC and the party;



- (iii) the relation is one which in the opinion of the community ought to be diligently fostered; and
- (iv) the injury to the relation that would result from the disclosure of the information is greater than the benefit gained for the correct disposal of the appeal.

Request to withhold representations not accepted

7. Should the Adjudicator decide not to accept a party's submission that information in its representations should be withheld, the Adjudicator will notify the party of this decision and will not disclose the information for the period of time specified in the notice, which shall not be less than 14 days.

PHIPA Practice Direction

is published by the **Office of the Information and Privacy Commissioner, Ontario, Canada.**

If you have any comments regarding this newsletter, wish to advise of a change of address, or be added to the mailing list, contact:

Communications Department

Information and Privacy Commissioner/Ontario
2 Bloor Street East, Suite 1400
Toronto, Ontario, CANADA M4W 1A8
Telephone: 416-326-3333 • 1-800-387-0073
Facsimile: 416-325-9195
TTY (Teletypewriter): 416-325-7539
Web site: www.ipc.on.ca





Number 4
October 2009

Ann Cavoukian, Ph.D.
Information and Privacy Commissioner,
Ontario, Canada

PHIPA Practice Direction

Access/Correction Complaint Form

A complaint concerning a request for access to and correction of personal health information under the Act may be made by sending to the Registrar a completed form as attached to this Practice Direction, or in any other written form as described in section 4.03 of the *Code of Procedure*.

PHIPA Practice Direction

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TTY (Teletypewriter): 416-325-7539
Web site: www.ipc.on.ca



Access/Correction Complaint Form

Complaint under the *Personal Health Information Protection Act (PHIPA)*

Note: A person or organization that has custody or control of personal health information for the purpose of providing health care is referred to as a "health information custodian" under the Act.

Your access/correction complaint should be sent to the attention of **the Registrar**.

Your Information

MR. MRS. Ms. Miss

SURNAME _____

GIVEN NAME _____ INITIALS _____

ADDRESS _____ UNIT _____

CITY _____ PROVINCE _____ POSTAL CODE _____

TELEPHONE DAYTIME _____ EVENING _____

E-MAIL ADDRESS* _____

*I consent to being contacted at this e-mail address or through that of my representative on my behalf. I acknowledge that sending e-mail over the Internet is not secure, in that it can be intercepted and/or manipulated and retransmitted.

Representative Information (Complete only if you will be represented.)

I authorize the following person to act on my behalf and to receive any personal health information pertaining to me, as necessary for the purposes of this access/correction complaint.

REPRESENTATIVE IS A: LAWYER AGENT MR. MRS. Ms. Miss

SURNAME _____

GIVEN NAME _____ INITIALS _____

NAME OF COMPANY, ASSOCIATION OR ORGANIZATION _____

ADDRESS _____ UNIT _____

CITY _____ PROVINCE _____ POSTAL CODE _____

TELEPHONE DAYTIME _____ EVENING _____

E-MAIL ADDRESS _____



Health Information Custodian Information

Name of Health Information Custodian Complaint Relates to _____

Consent to Process Your Access/Correction Complaint

- I consent for the Information and Privacy Commissioner/Ontario to inspect a record of, require evidence of, or inquire into, my personal health information as it pertains to the processing of my access/correction complaint.
-

Consent to Disclose Your Name to the Health Information Custodian the Complaint is about

Please select one of the following:

- I consent to my name being disclosed to the health information custodian in order to investigate this access/correction complaint.
- I do not consent to my name being disclosed to the health information custodian.
-

Consent to Provide a Copy of Documentation to the Health Information Custodian

Please select one of the following:

- I consent to a copy of this form and all attachments being provided to the health information custodian.
- I do not consent to a copy of this form and all attachments being provided to the health information custodian.
-

Attachments

The following documents have been attached (if available):

- Copy of the request.
- Copy of the health information custodian's decision letter

Details of the Access/Correction Complaint

Please select the box(es) that explain why the complaint is being made.

- Deemed Refusal** – It is more than 30 days since I made my request and I have not received a decision.
- Expedited Access** – The health information custodian refused my request to process my access request on an urgent basis in less than 30 days.
- Exemptions** – The health information custodian has exempted all or part of the requested records and I believe that more of them should be disclosed.
- Interim Decision** – Because of the number of records at issue, the health information custodian reviewed a sample of the records or consulted an experienced employee, advised me of the exemptions that might apply, and provided me with a fee estimate. I disagree with the amount of the fee estimate.
- Fee/Fee Estimate** – The health information custodian sent me an access decision that included a fee or fee estimate that I feel is excessive.
- Fee Waiver** – The health information custodian has refused to grant my request to waive the fees.
- Reasonable Search** – The health information custodian indicated that some or all of the requested records do not exist and I believe that more records do exist.
- Time Extension** – The health information custodian decided to extend the time limit for responding to my request, and I disagree.
- Failure to Disclose Records** – The health information custodian decided to grant access to requested records but I have not received them.
- No Jurisdiction** – The health information custodian indicated that the requested records are excluded from the Act and I disagree.
- Frivolous or Vexatious** – The health information custodian indicated my request is frivolous or vexatious and I disagree.
- Refusal to Confirm or Deny** – The health information custodian has refused to confirm or deny the existence of the requested records.
- Correction** – The health information custodian has refused to make corrections to my personal health information.
- Other** – please explain:

Resolution of Access/Correction Complaint

Please describe what, if anything, you have done to try to resolve your access/correction complaint with the health information custodian.

Please describe how your access/correction complaint could be resolved.

Information about the Access/Correction Complaint Process

For more information about the processes of the Information and Privacy Commissioner/Ontario, please contact our office at 416-326-3333, toll-free at 1-800-387-0073, or visit our website at www.ipc.on.ca.

Where to Send this Form

Mail this completed form to:

Registrar
Information and Privacy Commissioner/Ontario
1400-2 Bloor Street East
Toronto, Ontario
M4W 1A8

Signature

YOUR SIGNATURE _____ DATE _____