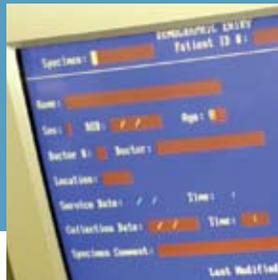


HIGHLIGHTS FROM

Alberta's Health Information Amendment Act

A SUMMARY OF CHANGES TO ENHANCE
HEALTH INFORMATION PRIVACY AND ACCESS



Alberta's *Health Information Act* came into force in 2001. To ensure the Act remains responsive to the needs of the health care system and its stakeholders, there was a legislative requirement to review the Act in 2004. The *Health Information Amendment Act* (Bill 31) is the result of that review. Several groups presented directly to an all party Select Special Committee and 72 stakeholder submissions were received. Based on the Committee's review and follow up by the Department, a number of amendments were put forward in the spring sitting of the legislature. The *Health Information Amendment Act* received Royal Assent on May 24, 2006 and is targeted for proclamation on October 31, 2006.

The amendments to the *Health Information Act* will address technical enhancements to provincial electronic health records, clarify disclosure rules, improve the Department's capacity to monitor drug trends, and enhance the privacy of Albertans' health information.

"These amendments aim to balance individual privacy with the protection of the public and the public health system"

Iris Evans, Minister of Health and Wellness,
April, 2006

Alberta

Disclosure of Health Information

The Act requires that the collection, use or disclosure of health information must be limited to only the amount of information that is essential to the purpose being served. This important provision remains in place and applies to the amendments in regard to disclosures which are described below.

(Refer to Section 58 of HIA)

Transfer of Records to Successor Custodians

- If a custodian is no longer providing health services within a geographic region, he or she may transfer health records without patient consent to the custodian who is taking over in that region. Previously, custodians could only transfer health records to another custodian without patient consent if they were ceasing to be a custodian, for example if they were retiring.

(Refer to Section 35(1)(q) of HIA)

Disclosures to Health Professional Bodies

- This amendment creates consistency between the *Health Information Act* and the *Health Professions Act* with regards to records retention. Previously, if a custodian disclosed an individual's diagnostic, treatment and care information to a health professional body as part of an investigation, proceeding, or practice review, the Act required the health professional body to agree in writing to destroy the information immediately after its purpose was served. This requirement has been removed. Health professional bodies, such as the College of Physicians and Surgeons of Alberta, must handle such information in accordance with the *Health Professions Act* and the *Personal Information Protection Act*.

(Refer to Section 35(4)(b)(ii) of HIA)

Disclosures to Specified Non-Custodians

- Amendments to the Act enable the disclosure of diagnostic, treatment and care information to the following non-custodians without patient consent in these circumstances:
 - to another government (provincial, territorial or federal), when an individual receives health services in Alberta which are paid for by that government. This will facilitate resource and policy planning to improve health system management for the jurisdictions involved.
(Refer to Section 35(1)(a.1) of HIA)
 - to third party insurers in order to obtain or process payment and to adjudicate health product and service claims more effectively.
(Refer to Section 35(1)(r) of HIA)
 - to the College of Physicians and Surgeons of Alberta (CPSA) for the purpose of administering the Triplicate Prescription Program (TPP). The TPP monitors the prescribing and use of certain drugs that are prone to misuse and abuse.
(Refer to Section 35(1)(s) of HIA)

Disclosure to Prevent or Limit Fraud or Abuse of Health Services

- If a custodian suspects fraud or abuse in the use of health services, limited health information may be disclosed to the police or to the Minister of Justice and Attorney General where the custodian reasonably believes:
 - the information relates to the possible commission of an offence under a statute or regulation of Alberta or Canada, **and**
 - the disclosure will detect or prevent fraud or limit abuse in the use of health services.
(Refer to Sections 37.1(1) and 37.2(1) of HIA)
- For individuals suspected of fraud or abuse of the health system, the health information that may be disclosed is:
 - the individual's name;
 - the individual's date of birth;
 - the individual's personal health number;
 - the nature of any injury or illness of the individual;
 - the date on which a health service was sought or received;
 - the location where the health service was sought or received;
 - the name and the date of any drug provided or prescribed to the individual.
(Refer to Section 37.1(2) of HIA)
- The custodian may also disclose health services provider information about a health services provider from whom the individual sought or received health services if that information is related to the information disclosed above. In this circumstance, health services provider information may be disclosed without the health services provider's consent.
(Refer to Sections 37.1(3) and (4) of HIA)
- For health services providers suspected of fraud or abuse of the health system, the information that may be disclosed is:
 - the name of the health services provider;
 - the business address of the health services provider;
 - the date on which the health services provider provided the health service;
 - the description of the health service provided;
 - the benefits that were paid or charged in relation to the health service provided.
(Refer to Section 37.2(2) of HIA)
- If a custodian discloses information about a health service, the custodian may also disclose individually identifying health information about the individual who received that health service. This information may be disclosed without the consent of the individual who is the subject of the information.
(Refer to Sections 37(3), 37.2(3) and (4) of HIA)
- When making this type of disclosure, the section 42 requirement to inform the recipient in writing of the purpose and authority for disclosure has been amended and does not apply.
(Refer to Sections 37.1, 37.2, and 42(2)(d) of HIA)

Disclosure to Protect Public Health and Safety

■ The former provision (Section 35(1)(j)) for disclosing health information to the police regarding a life-threatening injury to an individual has been repealed. There is now a provision that enables discretionary disclosure of individually identifying health information to the police or the Minister of Justice and Attorney General where a custodian reasonably believes:

- the information relates to the possible commission of an offence under a statute or regulation of Alberta or Canada, and
- the disclosure will protect the health and safety of Albertans.

(Refer to Section 37.3(1) of HIA)

■ The health information the custodian may disclose is:

- the individual's name;
- the individual's date of birth;
- the nature of any injury or illness of the individual;
- the date on which a health service was sought or received;
- the location of where the health service was sought or received;
- whether any samples of bodily substances were taken from an individual.

(Refer to Section 37.3(2) of HIA)

■ The custodian may also disclose health services provider information about a health services provider from whom the individual sought or received health services if that information is related to the information disclosed above. In this circumstance, health services provider information may be disclosed without the health services provider's consent.

(Refer to Sections 37.3(3) and (4) of HIA)

■ When making this type of disclosure, the section 42 requirement to inform the recipient in writing of the purpose and authority for disclosure has been amended and does not apply.

(Refer to Sections 37(3), 37.3, 42(2)(d) of HIA)

■ The sections providing for the disclosure of health information in response to a warrant, subpoena or court order having jurisdiction in Alberta or in limited circumstances regarding imminent danger or in the best interests of the individual remain in place.

(Refer to Sections 35(1)(l), 35(1)(m) and 35(1)(n) of the HIA)

Maintaining Certain Disclosure Information – Exception for Electronic System Disclosures

■ Custodians are no longer required to document the purpose for disclosing diagnostic, treatment and care information when:

- the information is accessed from a custodian's computer database, and
- when the database automatically keeps an electronic log of:
 - the user identification,
 - the date and time of access, and
 - a description of the information that is accessed.

(Refer to Section 41 of HIA)

Notification of Purpose of and Authority for Disclosure

■ This amendment clarifies that when an individual requests information about himself or herself and the information is provided to the individual, it is not necessary to inform the individual of the purpose of the disclosure.

(Refer to Section 42(2)(e) of HIA)

Mandatory Disclosure to Minister or Department

■ This amendment allows the Minister or Department to compel health information from another custodian if that information relates to a health service provided by that custodian and is prescribed in the regulations as information the Minister or Department may request. In this case the Department is required to submit a privacy impact assessment which describes the process, safeguards and impact of the disclosure, to the Office of the Information and Privacy Commissioner.

(Refer to Sections 46(1)(b) and 108(f.1) of HIA)

U.S.A. Patriot Act Related Changes:

There are three amendments that will address U.S.A. PATRIOT Act matters. These amendments complement recent amendments to Alberta's *Freedom of Information and Protection of Privacy Act* (FOIP). The objective is to enhance the privacy of Albertans' health information.

Scope of Act

■ This amendment ensures that compelling a witness to testify or compelling the production of documents can only be in response to the direction of a court or tribunal in Canada.

(Refer to Section 3(b) of HIA)

Disclosure of Diagnostic Treatment and Care Information

■ This amendment ensures health information can only be disclosed under an order, warrant or subpoena issued by a court person or body that has jurisdiction in Alberta.

(Refer to Section 35(1)(l) of HIA)

Offences and Penalties

■ Penalties for acting in contravention of the new provision have been increased to a maximum of \$500,000 and the statutory limitation for prosecution has been increased to two years.

(Refer to Section 107 of HIA)

Clarification Amendments:

The following amendments were created to enhance current provisions in the *Act* or to reflect terminology utilized in Alberta.

New Provincial Provider ID

- The Provincial Provider Identification (PPID) provisions were added to enable the creation of unique identifiers for health services providers so that information transactions are not based on professional registration or licensing numbers which merit specific protection under the Act. The amendments enable broad disclosure of this number as “business card” information.

(Refer to Sections 1(o)(xx) and 37(2) of HIA)

Publication of Research Ethics Board (REB) Response

- The HIA has been amended to enable the Information and Privacy Commissioner to publish REB approval letters, at the Commissioner’s discretion, in the interest of openness and accountability.

(Refer to Sections 50.1 and 91(1) of HIA)

Power to Authorize a Custodian to Disregard Requests

- Custodians must respond to a request to access, correct or amend health information within 30 days. If a custodian feels that such a request is unreasonable, frivolous or vexatious, the custodian may ask the Privacy Commissioner for authorization to disregard the request. The Act has been amended to allow the custodian to stop processing the request until the Commissioner has made a ruling on the custodian’s request.

(Refer to Section 87 of HIA)

Definitions

- The following two definitions or interpretations have been added to the HIA:
 - “Business Title” has been added to the definition of health services provider information as a recognized element of business card information.
(Refer to Sections 1(1)(o)(i.1) and 37(2) of HIA)
 - “Ethics Committee” has been substituted with “Research Ethics Board” throughout the act to reflect the current terminology used within Alberta.
(Refer to Sections 1(1)(j), 1(v.1), 27(1)(d), 49 to 54 and 108(2)(a) of HIA)

RESOURCES:

HIA Amendments Brochure

Additional copies of this HIA Amendments Highlights Brochure will be available for downloading from the Alberta Health and Wellness website (www.health.gov.ab.ca).

Health Information Act and Regulations

Alberta’s Health Information Act and Regulations will be available for purchase from the Queen’s Printer.

Queen’s Printer Bookstore
Main Floor, Park Plaza
10611 - 98 Avenue,
Edmonton, Alberta T5K 2P7
www.qp.gov.ab.ca
Phone: 780 427-4952
Toll Free: 310-0000 780-427-4952
Fax: 780 452-0668

Revised HIA Guidelines and Practices Manual

A revised HIA Guidelines and Practices Manual will be available for downloading from the Alberta Health and Wellness website (www.health.gov.ab.ca). Hard copies will also be available for purchase from the Queen’s Printer Bookstore.

Alberta Health and Wellness:

Information on publication dates for the revised HIA materials, additional information on how to implement the amendments and answers to other HIA related questions are available at the HIA Help Desk:

Alberta Health and Wellness HIA Help Desk
Phone: (780) 427-8089
Toll free: 310-0000 780-427-8089
Monday through Friday, 8:15 a.m. to 4:30 p.m.
e-mail: hiahelpdesk@gov.ab.ca

Office of the Information and Privacy Commissioner:

The Office of the Information and Privacy Commissioner can also answer questions regarding the *Health Information Act*:

Office of the Information and Privacy Commissioner
410, 9925 - 109 Street
Edmonton, Alberta T5K 2J8
Phone: (780) 422-6860
Toll Free: 1-888-878-4044
Fax: (780) 422-5682
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