

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT (FIPPA)

Frequently Asked Questions (FAQ's)

Office of Access and Privacy

What is FIPPA?

FIPPA stands for the *Freedom of Information and Protection of Privacy Act, 1990*. Hospitals are designated as institutions under FIPPA. Under this legislation, everyone has the right to make a request for access to a wide range of information held by hospitals.

What is the purpose of FIPPA?

The Freedom of Information and Protection of Privacy Act, 1990 (FIPPA) is two-fold in its mandate. First, it provides a right of access to information under the control of government organizations in accordance with the following principles:

- Information should be available to the public and exemptions to the right of access should be limited and specific.
- The Act protects personal information held by government organizations and provides individuals with a right of access to their own personal information.
- Decisions on the disclosure of government information may be reviewed by the information and privacy commissioner.

The other main purpose of FIPPA is to protect the privacy of individuals with respect to personal information about themselves held by institutions and to provide individuals with a right of access to the information. These concepts are similar to those the Hospital already employs with respect to personal health information under the *Personal Health Information Protection Act, 2004*.

Who can make a request for access to records?

Any person, organization or company can make a request for access to records. There are no restrictions related to a person's citizenship or place of residence.

Do I have to tell you the reason for my request?

The Hospital is permitted to ask for the purpose of a request if this will assist in identifying the specific records that you may be looking for. However, you are under no obligation to provide reasons. When we ask you "why?" you want a particular record, it is merely a mechanism to try and narrow down the request so we can properly assist you in finding the exact document you are looking for.

What information can I request?

FIPPA will apply to “records” that have been in the “custody or control” of a hospital since January 1, 2007, unless the record is subject to an express exclusion under the *Act*. FIPPA describes “records” as any information whether it is recorded in hard or soft copy, whether it’s in a paper file or on a computer.

How can I make a request?

Under FIPPA, a Freedom of Information (FOI) request must be in writing and must provide sufficient detail to allow staff to identify the information you are looking for. If you would like to make a Freedom of Information request, fill out the Freedom of Information Request Form, and mail the request form accompanied by a \$5 application fee (cheque or money order, payable to Oak Valley Health).

Please submit your FOI request to:
Office of Access and Privacy
Oak Valley Health
381 Church Street
Markham, ON L3P 7P3

What is a “record”?

The concept of a record is extremely broad and includes reports, emails, letters, audio and visual recordings, and any records that can be created from existing data stored on a computer. It is also not limited to the final form of a document; working copies and drafts, or, reports and letters are also deemed records that can be requested by and produced to a requester. Furthermore, handwritten notes and other notations made on working copies, drafts and final forms of documents are also considered records.

Can I be refused access to a record?

The decision to refuse access to a record will be made by the Hospital’s Manager of Access and Privacy in conjunction with other relevant staff and advisors. It’s important to understand, however, that the Hospital cannot simply refuse access to a record in our custody or control unless we have clearly laid out the exemptions we are claiming under the *Freedom of Information and Protection of Privacy Act, 2012* to deny access. Once we deny access to a record (or partial access to a record), you have the right to appeal our decision to the Office of the Information and Privacy Commissioner/Ontario (IPC). The IPC will then determine if we have made a reasonable argument for denying access under the *Act*.

What records are NOT covered by FIPPA? What records are excluded from FIPPA?

Where the *Freedom of Information and Protection of Privacy Act, 2012* states a type of record is excluded; requesters do not have a right to access those records. For example, records that relate to:

- employment
- labour relations
- the appointments or privileges of health professionals
- regulated health professionals' private practice records
- research records
- teaching records
- hospital foundation records
- charitable donation records
- abortion records

It will be up to the Hospital's Manager of Access and Privacy to determine whether a record falls into one of these categories.

What about personal health information and health records? Are they subject to disclosure under FIPPA?

No. Personal health information is still subject to the *Personal Health Information Protection Act, 2004* (PHIPA). Personal health information and health records are still private and confidential. They should not be released for any freedom of information (FOI) requests.

What is the role of the Information and Privacy Commissioner (IPC) under FIPPA?

The Information and Privacy Commissioner provides an independent review of the decisions and practices of institutions covered by FIPPA. To safeguard access and privacy rights established under FIPPA, the IPC has the following key roles:

- investigating privacy complaints related to personal information under FIPPA;
- including writing public reports about the investigation and any
- Recommendations
- ensuring that institutions comply with FIPPA;
- resolving appeals when institutions refuse access to information;
- including issuing orders to resolve issues and requiring institutions to disclose
- records
- researching access and privacy issues; and
- educating the public about Ontario's access and privacy laws.

- For more information about the IPC, please visit their website at <http://www.ipc.on.ca/>

Does the Hospital have to report to the Information and Privacy Commissioner (IPC)?

Yes. The Hospital must submit an annual report to the IPC. The report must set out:

- the number of access requests received;
- the number of requests refused, the provisions of the *Freedom of Information and Protection of Privacy Act, 2012* relied upon for refusal, and the number of times each provision was relied upon;
- the number of appeals commenced for each provision of the *Freedom of Information and Protection of Privacy Act, 2012*;
- the number of times personal information was used or disclosed for a purpose which is not included in the states of use and the purposes set forth in section of the *Freedom of Information and Protection of Privacy Act, 2012* relating to Personal Information Banks;
- the amount of fees collected for FOI requests; and
- any other information indicating an effort by the institution to put into practice the purposes of the *Freedom of Information and Protection of Privacy Act, 2012*.