



# Freedom of Information at Ontario Hospitals: Frequently Asked Questions

FAQ



The *Broader Public Sector Accountability Act* received Royal Assent on December 8, 2010. This statute amends the *Freedom of Information and Protection of Privacy Act (FIPPA)* to designate hospitals as institutions, joining other public bodies such as provincial ministries and agencies.

As a result, hospitals in Ontario will be covered by freedom of information (FOI) legislation for the first time — as of January 1, 2012.

## THE FOLLOWING ARE ANSWERS TO QUESTIONS MOST FREQUENTLY ASKED ABOUT HOSPITALS AND FOI.

### **When will freedom of information be applied to hospitals?**

Hospitals will be designated as institutions under *FIPPA* as of **January 1, 2012**. After that date you have the right to make a request for access to a range of recorded information held by hospitals, including records of personal information, that came into the custody or under the control of a hospital on or after **January 1, 2007**. Access to one's own records of personal health information, however, will continue to be governed by the *Personal Health Information Protection Act*.

### **Why have hospitals been added under the legislation?**

Access to information held by our public institutions is a vital ingredient for a free and functioning democratic society. This is a welcome step toward a culture of greater transparency and accountability in our hospitals, something Ontario's Information and Privacy Commissioner has long advocated for. It also addresses the anomaly of Ontario being the only Canadian province in which hospitals were not covered by FOI legislation.

### **Aren't hospitals already covered under the *Personal Health Information Protection Act*?**

Yes, hospitals have been covered under the *Personal Health Information Protection Act (PHIPA)* since 2004. However, *PHIPA* only governs the collection, use and disclosure of personal health information and not other types of information.

Under *PHIPA*, you are entitled to request access to your own records of personal health information, including hospital records. *PHIPA* also allows a substitute decision-maker to access records of personal health information on behalf of another individual in defined circumstances.

Every hospital has a designated contact person, usually called a **Privacy Officer**, to facilitate these requests for health records and resolve privacy complaints under *PHIPA*.

### **So what changes with the introduction of hospitals to *FIPPA*?**

With the introduction of *FIPPA*, you have a much broader right of access to records held by hospitals. For example, you may request access to records under a hospital's custody or control relating to:

- administrative and operational functions;
- financial considerations and decisions; and
- personal information.

There are a number of exemptions and exclusions from the right of access. For example, where the disclosure of a record could reasonably be expected to interfere with a law enforcement matter, it may be exempt from disclosure. As another example, records that relate to the operations of a hospital foundation are excluded from the right of access.

Every hospital will need to appoint a designated **Freedom of Information Co-ordinator** in order to administer the requests received under *FIPPA*.

### **How do I make a freedom of information request to a hospital?**

As of January 1, 2012, you can write a letter or complete a *Request Form* (available at [www.ipc.on.ca](http://www.ipc.on.ca)) and send it to the **Freedom of Information Co-ordinator** at the hospital. You would need to include an application fee of \$5.00 — a cheque or money order payable to the hospital.

## **What if I don't get the information I am looking for?**

A hospital needs to reply to your written request within 30 calendar days. The Information and Privacy Commissioner of Ontario (IPC) has oversight for compliance with *FIPPA*. If you do not receive the hospital's response within the 30-day time frame you can appeal to our office on the basis of a "deemed refusal."

The hospital may decide not to release all of the information that you request, in which case it would have to cite the sections of *FIPPA* it is using to withhold the information from you. If you disagree, you can then ask the IPC to review the decision by making an "appeal". You can do this by writing a letter or using the *IPC Appeal Form* (available at [www.ipc.on.ca](http://www.ipc.on.ca)) and enclosing an appeal fee of \$10.00 (for personal information) or \$25.00 (for general information).





For more information:

**Information and Privacy Commissioner  
Ontario, Canada**

2 Bloor Street East, Suite 1400  
Toronto, Ontario M4W 1A8 CANADA

Tel: 416-326-3333 or 1-800-387-0073

Fax: 416-325-9195 TTY: 416-325-7539

info@ipc.on.ca www.ipc.on.ca

## About the IPC

The role of the Information and Privacy Commissioner is set out in three statutes: the *Freedom of Information and Protection of Privacy Act*, the *Municipal Freedom of Information and Protection of Privacy Act* and the *Personal Health Information Protection Act*. The Commissioner is appointed by the Legislative Assembly of Ontario and is independent of the government of the day.

Other brochures available from the IPC:

- *Access to Information under Ontario's Information and Privacy Acts*
- *Your Privacy & Ontario's Information and Privacy Commissioner*
- *Ontario's Freedom of Information and Protection of Privacy Act: A Mini Guide*
- *The Personal Health Information Protection Act and Your Privacy*



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