



Guide for the Health Information Act

Privacy and Management of Patient Health Information

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Executive Summary

Alberta's *Health Information Act* is privacy legislation that sets out specific rules about the collection, use, disclosure and protection of the health information that all dentists, have in their custody and control. Dentists in Alberta are required to comply with the *Alberta Health Information Act* and in order to do so, need to go beyond just protecting patient's confidentiality, dentists also need to develop and participate in an ongoing privacy program that addresses accountability, information flow, right of access, and security. Alberta dentists must be compliant with the *Health Information Act*, which is administered by the Office of the Information and Privacy Commissioner of Alberta

The requirements for how dentists collect, use, disclose and protect health information have changed as dentists are now governed by Alberta's *Health Information Act* (HIA) as of March 1, 2011. The Health Information Act is much more than privacy legislation. It is enabling legislation along with the Health Professions Act and Government Organization Act that defines the legal parameters that allow dentists to provide health care to our patients.

The Alberta Dental Association and College has developed a series of Guides supported by resources and templates to assist Alberta dentists to implement a privacy and confidentiality program that is compliant with Alberta's *Health Information Act* and the Alberta Dental Association and College Standard of Practice: Privacy and Management of Patient Health Information. The Guides with their associated resources are organized in a Step by Step approach.

This **Guide for the Health Information Act: Privacy and Management of Patient Health Information** represents Step 1 in the process. This document provides a detailed explanation of the *Alberta Health Information Act* and how it applies to dentists in Alberta. In addition, the Alberta Dental Association and College has created a series of four Video Modules on the Health Information Act to act as resources with this Guide. The Guide along with the associated Video Modules function as a primary training medium for both custodians (dentist) and staff (affiliates).

There is the need to familiarize and develop a working knowledge of the Health Information Act and associated regulations. The Health Information Act consists of the following:

1. Health Information Act (Alberta)
2. Health Information Act Health Information Regulation
3. Health Information Act Alberta Electronic Health Record Regulation
4. Health Information Act Designation Regulation

To support this process dentists need to review the following Alberta Dental Association and College Standards of Practice:

1. Privacy and Management of Patient Health Information
2. Patient Records
3. Informed Consent

Summary of Custodian Responsibilities

Dentists can be custodians or affiliates; dentists who are practice owners are custodians of health information under the *Health Information Act* and a dentist who is an associate or an employee is an affiliate of a custodian. All employees or others (e.g. contractors) of the custodian are deemed affiliates of the custodian. The custodian is responsible to implement a privacy program that is compliant with the *Health Information Act* and the custodian must have all affiliates follow these policies as well.

The *Health Information Act* outlines specific practices and standards for health information privacy which custodians must follow. Information privacy goes beyond confidentiality (protecting from unauthorized access); privacy is based on giving individuals control over how others – particularly health professionals – create, share, protect and manage their personal health information.

Health information is any information collected (directly or indirectly) and recorded about an identifiable individual when a health service is provided. This information includes for example all diagnostic, treatment and care information as well as registration, provider and billing information.

Each dentist or practice must designate a Privacy Officer responsible for implementing the custodian's privacy program, backed up by practice-specific, written policies and procedures. The policies and procedures document how the dentist or practice will implement the requirements of the *Health Information Act*, including how the dentist and their affiliates collect, use, disclose and protect health information. These policies and procedures must include a written record of the administrative, technical and physical safeguards in place to protect the privacy and confidentiality of health information. Dentists must also follow the *Health Information Act* requirements relating to the preparation of Privacy Impact Assessments. The act anticipates that most custodians will need to file an initial Privacy Impact Assessment with the Office of the Information and Privacy Commissioner and periodically resubmit when necessary. Prior to implementing new administrative practices or information systems that may affect health information privacy, either an amendment to an existing Privacy Impact Assessment or a new Privacy Impact Assessment needs to be submitted to the Office of the Information and Privacy Commissioner.

The *Health Information Act* is designed to facilitate the sharing of health information among health information custodians and their affiliates (the circle of care). Dentists can, without patient consent, share health information about patients with other custodians within the circle of care so long as it is connected to specific authorized purposes, including delivery of health care for the patient, or administration of the health system. For disclosure to non-custodians and others who are not part of the circle of care or for purposes that are not specifically authorized, the *Health Information Act* outlines specific circumstances where use and disclosure may be allowed. Dentists must collect, use and disclose the least amount of health information essential to meet these purposes.

A fundamental principle of privacy legislation is that individuals have a right of access to their own personal information. The access process must be designed from the outset to be open, consistent and compliant with the *Health Information Act*.

Dentists will have access to Alberta Netcare as authorized custodians in 2017. They will need to comply with the formal processes set out by Alberta Health and Wellness. Permission and other security credentials are set up so users have enough information to do their jobs, while ensuring that information is accessed only for authorized purposes.

1. Who Sets the Privacy Rules for Dentists

1.1 The Health Information Act (Alberta) (HIA)

As of March 1, 2011, dentists who are registered with the Alberta Dental Association and College have been governed by the *Health Information Act (Alberta)* or *Health Information Act*. This privacy legislation sets out the specific rules under which dentists and other “custodians” under the Act collect, use, disclose, and protect health information in their custody and control.

Under the *Health Information Act*, health care custodians may collect, use and disclose health information for purposes identified in the Act and for other purposes with the consent of the patient, under extensive accountability and security conditions. In general, the *Health Information Act* outlines specific practices and standards for health information privacy that in effect apply internationally recognized privacy principles to health information in Alberta.

1.2 Other Privacy Legislation

Where health information is being transferred across provincial boundaries in relation to commercial activity, such as in the case of obtaining payment from an insurance company located outside of Alberta, the provisions of the federal *Personal Information Protection and Electronic Documents Act* (PIPEDA) may apply. *Personal Information Protection and Electronic Documents Act* contains exceptions regarding when personal information can be disclosed without the individual’s consent. One exception is to collect a debt the individual owes a custodian.

As well, Alberta’s *Personal Information Protection Act* will likely apply to the personal information of dental clinic employees. That legislation has specific rules regarding the collection, use and disclosure of personal employee information. Further, where the services provided to patients do not fall within the definition of health services in the *Health Information Act* (for instance, because they are as a result of an independent medical examination for the purpose of determining benefits or coverage for insurance purposes), the *Personal Information Protection Act* will likely apply to the information of the individual provided those services.

1. If a dentist is providing services pursuant to a contractual or employment relationship with Alberta Health Services, a school division, or another public body, the provisions of the *Freedom of Information and Protection of Privacy Act* may apply to certain information collected, used and disclosed by a dentist. In such an instance, the public body will likely provide direction to the dentist regarding required compliance with that legislation. However, in such an instance the *Health Information Act* will still apply to patient health information collected, used and disclosed in relation to the provision of health services.

1.3 Professional Ethics and the Health Information Act

The dental profession has a long history of safeguarding the confidentiality of health information as a vital component of their professional relationship with patients. The key concepts relating to patient privacy in the Alberta Dental Association and College *Code of Ethics* mirror closely the key principles of privacy legislation. The section on confidentiality provides high-level direction on major aspects of privacy.

Alberta Dental Association and College

Code of Ethics, 2007

Article A7: Confidentiality and Release of Patient Information

Patient information, verbally, written or electronically acquired and kept by the dentist, shall be kept in strict confidence except as required by law or as authorized by the patient.

The information in dental records or reports must be released to the patient or to whomever the patient directs, including other professionals and dental plan carriers, when authorized by the patient. This obligation exists regardless of the state of the patient's account.

An authorization by a patient allowing a dentist to provide information to a dental plan carrier or another third party is acceptable. A separate authorization is not required for each release of information provided the information is shared for the purposes described in the authorization and the authorization allows the release of information on an ongoing basis.

However, if there is any conflict between the *Code of Ethics* and the *Health Information Act* regarding the collection, use or disclosure of personal health information, the *Health Information Act* provisions would prevail, unless the *Health Information Act* or another Act expressly states otherwise.

2. Key Concepts and Principles

2.1 Scope and Application of the Health Information Act

QuickPoint:

Each member of the Alberta Dental Association and College is a “custodian” under Health Information Act. As a custodian, each dentist is responsible for the health information they produce or receive as part of the provision of health services to their patients.

The *Health Information Act* applies to health information generated by dentists registered with the Alberta Dental Association and College when providing health services to patients. Like other health professionals, dentists are considered “custodians” under the legislation when they provide these services directly in practices or as individual professionals, even if the services are on behalf of a non-health care employer who may be governed by other privacy legislation. In such circumstances, the dentist is directly and individually responsible as a custodian for ensuring compliance with the *Health Information Act* for the health information in their custody or control.

Employees within the dental practice are “affiliates” of the dentist. As custodian, the dentist is responsible for ensuring that all affiliates are compliant with the *Health Information Act* in the way they handle health information.

2.2 Privacy vs. Confidentiality

QuickPoint:

Maintaining privacy means more than just safeguarding confidentiality – it is an ongoing program that involves accountability, control of information flow, right of access procedures, and security measures.

When they think about managing health information, health professionals often talk about protecting the *confidentiality* of their patients’ information. Used this way, confidentiality involves safeguarding information from unauthorized access once it comes into the custody of the health professional.

Information privacy on the other hand, has a much broader meaning. Privacy has been defined, generally, as the “right to be left alone” or to keep certain aspects of your life removed from public view. Living and working in a modern society, however, requires everyone to share information about themselves with people and organizations providing services to them, such as dentists. In practical terms, then, information privacy is based on principles and measures aimed at giving individuals

control over how others — and particularly health professionals — create, share, protect, and manage their personal health information.

To comply with current privacy standards for patient health information, dentists therefore need to go beyond just protecting the confidentiality of health information they hold: they need to develop and participate in an ongoing privacy program that addresses accountability, information flow, right of access, and security.

2.3 What is Health Information?

QuickPoint:

Health Information links an identifiable individual with information about:

- *their physical or mental health, including drugs prescribed;*
- *the health service provider;*
- *their contact and billing information.*

The *Health Information Act* operates with a very comprehensive definition of health information that covers any information about an individual that is collected and recorded when a health service is provided. The following types of health information are identified in the *Health Information Act*.

Diagnostic, treatment, and care information is about:

1. the physical and mental health of an individual;
2. a health service and the health service provider, including name, title, business card information, type of provider, license number, profession, classification, employer, location of practice, and provincial identification;
3. donations of body parts or bodily substances or information derived from testing thereof;
4. drugs prescribed;
5. health care aids;
6. health care benefits; and
7. any other information collected when a health service is provided to the individual.

Registration Information includes:

1. name, identification, personal health number, date of birth, gender, contacts;
2. location and how to contact;
3. residency ;
4. health service eligibility; and
5. billing.

Health information is “non-identifying” if the subject individual cannot be readily identified from the information. By and large, the *Health Information Act* has few rules for the collection, use, or disclosure of non-identifying health information, so long as the individual’s identity remains hidden and is not linked to other information about the individual that would serve to identify them.

2.4 Roles and Policies

Quick Point:

Each dentist or practice must **designate a Privacy Officer** responsible for implementing the custodian’s privacy program, backed up by **practice-specific policies and procedures**.

Privacy accountability means that the dentist’s privacy program responsibilities and policies are clear and transparent to the general public. Under section 62 of the *Health Information Act*, each dentist or practice must identify a “responsible affiliate” who will act as their Privacy Officer to ensure compliance with the *Health Information Act*.

This Guide is provided to dentists as an overview to assist with *Health Information Act* compliance.

However, it is very important each dentist or dental practice must develop and follow written policies and procedures in order to implement the custodian’s *Health Information Act* privacy program.

Resource information:

The Alberta Dental Association and College has developed a series of video modules on the *Health Information Act* and its requirements. The videos will assist custodians (dentists) and affiliates (staff or service providers) to understand both the intent of the Act and its requirements in greater detail. Providing training related to the *Health Information Act* for affiliates is a requirement. Video module 1 covers the preceding sections of this Guide.

3. Developing and Implementing a Privacy Program

Privacy management requires effective knowledge of, control over, and accountability for, the health information in your area of responsibility. This section discusses some of the steps and methods for defining, managing and evaluating compliance with the *Health Information Act*.

3.1 Appointing a Privacy Officer

The Privacy Officer is accountable for overall compliance with the *Health Information Act* or other applicable privacy legislation. This person will become familiar with applicable privacy legislation, will oversee the development of privacy policies and procedures, will assist with the processing of access and correction requests, and will communicate with individuals and privacy commissioners regarding the dentist's practices and procedures.

3.2 Creating an Inventory of Health Information

If you have not already done so, identify the health information currently collected, used, stored, and disclosed about patients.

If during this review, you find information being collected that is not required, cease collection.

3.3 Assessing Existing Policies and Practices

One of the first steps in undertaking a privacy program for health information involves conducting an assessment of existing policies and practices in order to determine if they are compliant with the *Health Information Act*. This assessment can be used to determine which areas of the organization require improved policies and practices to better comply with provisions regulating the collection, use and disclosure of health information.

3.4 Developing Policies and Practices

Section 63 of the *Health Information Act* mandates that custodians establish or adopt written policies and procedures to implement the requirements of the *Health Information Act*.

For instance, a privacy policy is an important aspect of an organization's ability to comply with privacy legislation. Privacy policies inform both staff and members of the public that privacy is recognized and respected by the organization.

Custodians should also document other relevant policies and procedures, such as document retention schedules, security policies, and so on.

3.5 Training Staff

Custodians remain responsible for the actions of their affiliates with respect to compliance with the *Health Information Act*. Staff training is an important aspect of compliance with privacy legislation. Staff must be trained to understand the importance of and value of health information, and why it must be protected from unauthorized collection, use, disclosure or destruction. Dentists should provide training for staff that is relevant to the staff members' respective roles and responsibilities regarding health information.

3.6 Complying with Privacy Impact (PIA) Requirements

A Privacy Impact Assessment is an assessment of the custodian's compliance with the *Health Information Act*. Dentists must follow the *Health Information Act* requirements relating to the preparation of Privacy Impact Assessments. The act anticipates that most custodians will need to file an initial Privacy Impact Assessment with the Office of the Information and Privacy Commissioner and periodically resubmit when necessary. Prior to implementing new administrative practices or information systems that may affect health information privacy, either an amendment to an existing Privacy Impact Assessment or a new Privacy Impact Assessment needs to be submitted to the Office of the Information and Privacy Commissioner.

Additional Privacy Resources

The Alberta Privacy Commissioner's website (www.oipc.ab.ca) contains comprehensive information about privacy legislation. Other online resources include:

- *Health Information Act* (HIA) – legislation is available from Alberta Queen's Printer at www.qp.gov.ab.ca. The *Health Information - A Personal Matter - A Practical Guide to the Health Information Act*, the *Health Information Act Guidelines 2011* and *Highlights from Alberta's Health Information Amendment Act* are available at www.health.alberta.ca.
- *Personal Information Protection Act* (PIPA) - legislation, frequently asked questions and *A Guide for Businesses and Organizations on the Personal Information Protection Act* are available at www.servicealberta.ca/pipa/.
- *Personal Information Protection and Electronic Documents Act* (PIPEDA) - legislation is available at www.privcom.gc.ca and awareness tools (questions and answers, glossary, poster, and brochures) are available at http://e-com.ic.gc.ca/epic/internet/inecic-ceac.nsf/en/h_gv00207e.html

Other resources:

- *Alberta Government Private Sector Privacy Information Line (PIPA)*: 780.644.7472 (for toll-free dial 310.0000 first).
- *Alberta Government Health Information Act (HIA) Help Desk*: 780.427.8089 (for toll-free dial 310.0000 first).
- *Alberta Privacy Commissioner*: 780.422.6860 or 1.888.878.4044.
- *Federal Privacy Commissioner*: 1.800.282.1376.

4. Sharing Health Information under the Health Information Act: An Overview

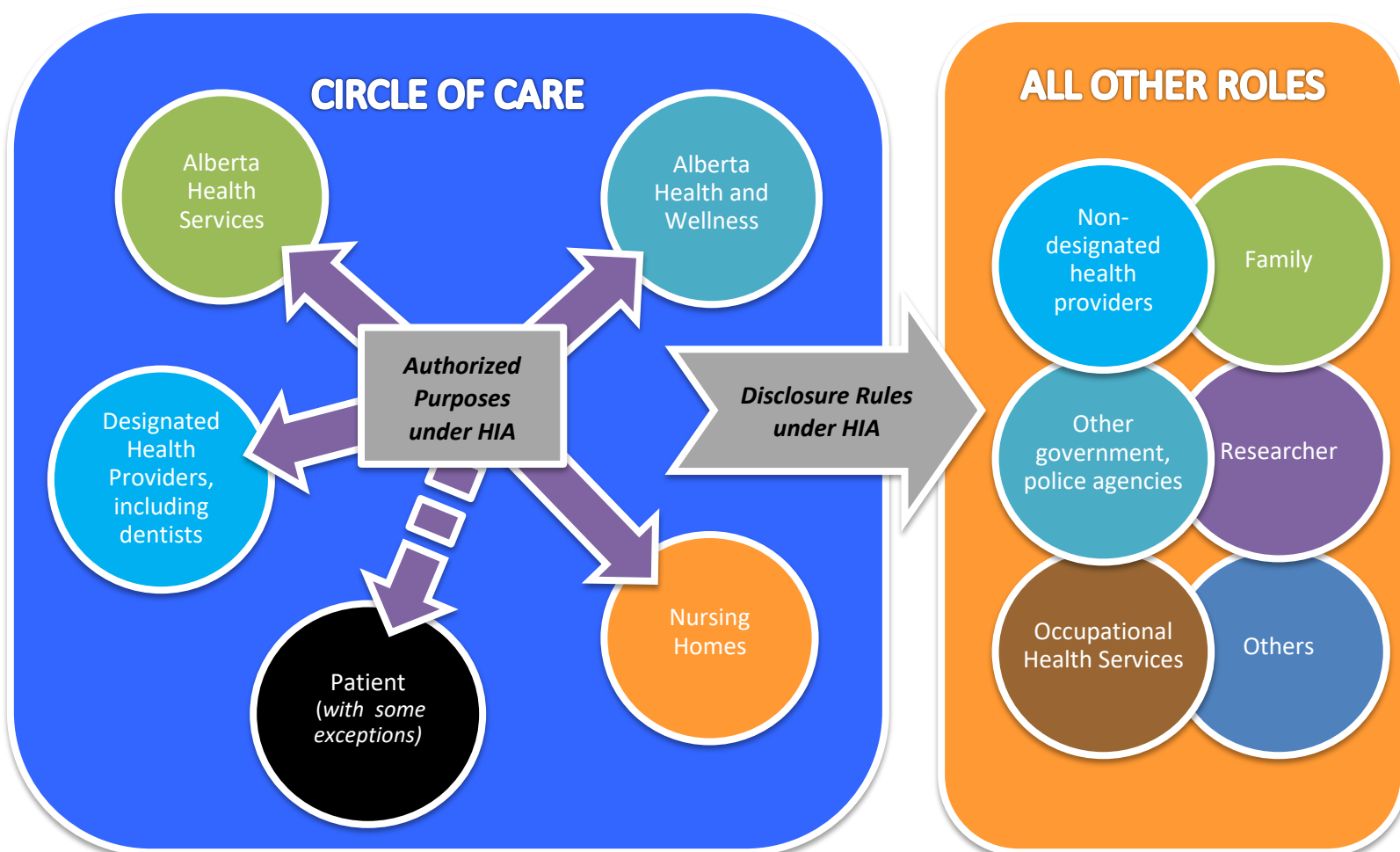
QuickPoint:

The Health Information Act allows a relatively free flow of health information among health providers within the ‘circle of care’ of a particular patient. Disclosure outside of this circle is more strictly controlled.

The *Health Information Act* is designed to facilitate the sharing of health information, in a controlled way, within a “circle of care”. Figure 1 illustrates the flow of health information both within and outside of the circle of care.

Figure 1

Note: Figure 1 does not list all custodians. For a complete list of custodians, consult the *Health Information Act* and associated regulations.



Individual patients regularly receive from and disclose their own health information to dentists as part of obtaining health services; dentists, however, can withhold from individual patients some of their own health information under exceptional circumstances outlined in Part 2 of the *Health Information Act*.

A patient may not have the legal authority to make decisions on their own behalf (e.g. they are a minor, or are incapacitated). An authorized representative of the patient may act on their behalf for any decision-making under the *Health Information Act*. An authorized representative includes:

- A guardian of a minor 18 years or younger who is not competent to understand their rights and powers under the *Health Information Act* (minors may be considered “mature minors” if they understand the nature of the right or power and the consequences of exercising the right or power);
- A personal representative for the administration of a deceased individual’s estate, for estate purposes;
- A guardian or trustee under the *Adult Guardianship and Trusteeship Act*;
- An agent under the *Personal Directives Act*;
- An attorney under a power of attorney, for relevant purposes under the power of attorney;
- The nearest relative of a formal patient under the *Mental Health Act*; or
- A person with written authorization from the individual to act on the individual’s behalf.

Dentists must be careful to verify the status of the authorized representative.

The Alberta Dental Association and College Code of Ethics, Article A11: Arrangements for Continuity of Care provides high-level guidance as to the importance of continuity in care and the responsibility for patient records when arranging for continuity of care with another dentist.

AUTHORIZED PURPOSES FOR COLLECTING, USING AND DISCLOSING HEALTH INFORMATION WITHOUT CONSENT WITHIN THE CIRCLE OF CARE

(Health Information Act, Section 27)

- Providing health services;
- Verifying eligibility to receive a health service;
- Investigations, practice reviews, or inspections of a health professional;
- Research that has been approved by a designated research ethics board;
- To facilitate health service provider education;
- For a purpose authorized by statute; or
- To support internal management, including planning, resource allocation, policy development, quality improvement, monitoring, audit, evaluation, reporting, processing payments, or human resource management.

5. Collecting and Using Health Information

5.1 Limiting How Much Health Information is Collected and Used

QuickPoint:

Dentists must only collect and use the least amount of health information essential for the intended purposes.

Properly managing and protecting health information starts with ensuring that you collect the right information about a patient for the right purposes. Once a dentist has health information about the patient in their custody or control, they then have to make sure that they and their affiliates use the information for these purposes.

Dentists may only collect and use health information about individuals for one of the authorized purposes listed under section 27 of the *Health Information Act* or for other purposes consented to by the patient or authorized representative.

Dentists need to limit the amount and type of information they collect and use to the least amount of health information essential to carry out the intended purposes, with the highest degree of anonymity possible.

By the same token, once it is collected, dentists and their affiliates are not free to use health information for any purpose. For instance, in order to provide health services to a patient, collected health information can be used for authorized purposes such as scheduling appointments, billing, or for an employee to assist chair-side. Employees should only access the records of those patients to whom they are delivering services; access to records of other patients must be justified by one of the authorized purposes.

5.2 Indirect Collection

QuickPoint:

Dentists can collect health information from someone other than the patient in the circumstances listed in the Health Information Act.

As a general rule, dentists should try to collect personal information directly from the patient. However, there are instances where dentists collect health information indirectly from sources other than the patient, including making or receiving a referral from another provider. The *Health Information Act* recognizes a number of circumstances where indirect collect is allowed, including the following:

1. Where the collection is authorized by the patient;
2. Where the information is collected from an authorized representative of the patient;
3. Where, on reasonable grounds, the dentist believes that collecting information from the patient would prejudice the interests of the patient, the purpose for collecting the information, or the safety of anyone else, or would result in inaccurate information being collected (e.g., a patient can't remember the names of medications they are taking);
4. Where direct collection is not reasonably practicable (e.g., where the patient is incapacitated, or because of urgency);
5. Where the information is available to the public;
6. To determine or verify eligibility to receive a benefit, product or health service;
7. To inform the Public Guardian or Public Trustee about clients or potential clients;
8. To facilitate an authorized research project;
9. Where another custodian is disclosing the information to the dentist under any of the conditions listed in Part 5 of the *Health Information Act* (see Section 6, Disclosing Health Information) (e.g., from another custodian for health purposes, from a person responsible for providing continuing treatment or care, or to detect fraud).

5.3 Notification

QuickPoint:

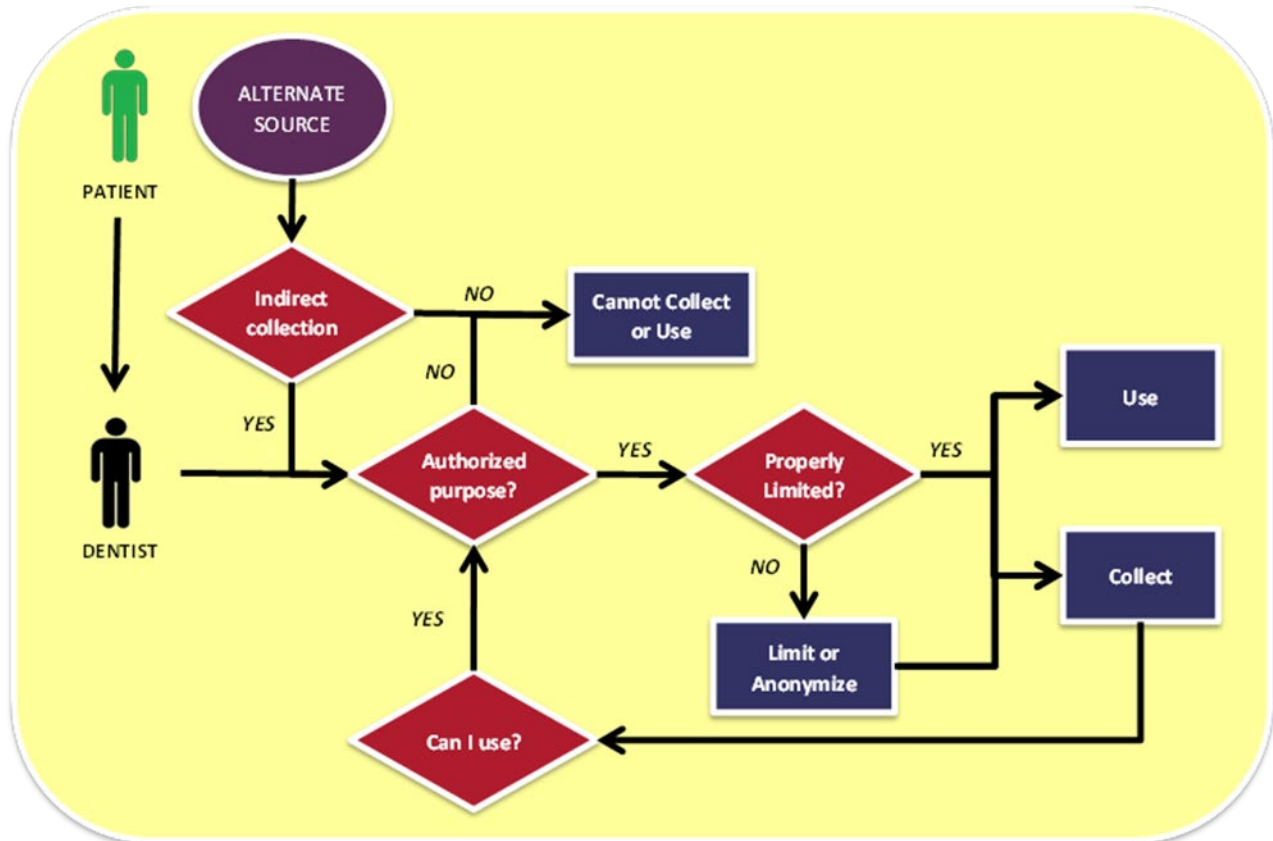
Every patient should be able to know what information about them is being collected and used by a dentist, and why.

When collecting information directly from patients, it is important that dentists notify patients of the specific purposes and authority for the collection. The notice must be given prior to collection in a clear, understandable form and must provide the name of the official in the practice who can answer questions about the collection. The notification can be done through brochures, posters, or one-on-one consultations (see [Appendix 3: Sample Notification for Collection of Health Information](#)).

5.4 Collection and Use Summary

Figure 2 is a summary of the processes and decisions dentists need to complete as part of their collection and use of health information. The duration and complexity of the process flow will vary greatly depending on the circumstances.

Figure 2
Collection and Use Process Flow



6. Disclosing Health Information

6.1 Disclosure of Health Information for Authorized Purposes

QuickPoint:

Dentists can disclose to other custodians within the circle of care the least amount health information required for the specific authorized health care purposes listed in Health Information Act. Patient consent is not required.

Health information can be disclosed to other custodians for authorized purposes, including the provision of health services. Disclosure to the individual who is the subject of the information is dealt with in [Section 7: Giving Individuals Access to Their Own Information](#). In addition, there are other

circumstances outlined in Part 5 of the *Health Information Act* where a dentist may or must disclose patient information.

As with collection and use of health information, dentists need to limit the amount and type of information they disclose to the least amount of health information essential to carry out the purpose, with the highest degree of anonymity possible. In addition, if a patient explicitly makes a request to limit disclosure of their health information to certain health providers, for instance, the dentist must carefully consider and be prepared to accommodate this request if it is reasonable and practical.

6.2 Disclosure for Other Purposes

QuickPoint:

The Health Information Act lists over 25 specific circumstances where a dentist can disclose health information to others without a patient consent.

Part 5 of the *Health Information Act* lists a significant number of circumstances in which dentists would be able to disclose health information to non-custodians or for other purposes, without the consent of the patient. A key point to make about the disclosure sections of the *Health Information Act* is that these are enabling provisions, not requirements to disclose. The dentist is allowed, but not obligated, to disclose patient information without consent under the circumstances presented.

QuickPoint:

Dentists should review sections 35 to 40 of the *Health Information Act* for a complete list of permitted disclosures.

DISCLOSURE OF HEALTH INFORMATION WITHOUT CONSENT OUTSIDE OF THE CIRCLE OF CARE (see *Health Information Act Sections. 35-45 for complete list*)

Part 5 of the *Health Information Act* permits disclosure of health information in various circumstances, including:

- to government of Canada or another province or territory, for health system management, if:
 - the patient is resident of that region; or
 - that government is paying for the health service;
- to the person responsible for providing continuing treatment and care to the patient;
- If the disclosure is not against the expressed request of the patient, to family members or close personal friends:
 - if it is limited to presence, location, condition, diagnosis, progress, and prognosis on that day;
 - to contact them if the patient is incapacitated or deceased; or
 - to provide information about circumstances or health service provided surrounding the patient's death.
- to a person conducting an audit, if the person agrees in writing:
 - to destroy the information as soon as the audit is completed;
 - not to disclose the information to anyone other than to report unlawful or improper conduct of a health service provider;
- as part of court or quasi-judicial proceeding to which the dentist is party;
- to comply with a court order, warrant or subpoena binding in Alberta;
- to another custodian, as part of an investigation of fraud, abuse of health services, or to prevent commission of a statutory offence;
- to avert imminent danger to health or safety of anyone;
- if it is in the best interests of individual who lacks capacity to consent;
- as authorized or required by law in Alberta or Canada;
- to a custodian who is the successor of the dentist's practice;
- to obtain or process payment for health services;
- to a health professional body, as part of a complaint or investigation; or
- to the College of Physicians and Surgeons of Alberta in compliance with the Triplicate Prescription Program.

6.3 Recording Disclosures

QuickPoint:

All disclosures must be properly documented or “logged” in some form, either manually or electronically, including the date, purpose, recipient, and description of the information disclosed.

Whenever there is a disclosure of health information within or outside the circle of care, the dentist responsible must ensure that the following information is logged about the transaction and that it is retained for at least 10 years:

1. Name of person to whom information disclosed;
2. Date and purpose; and
3. Description of information disclosed.

This information may be kept as a separate disclosure log (paper-based or electronic) or may simply be any documentation kept in a record that provides the same data whenever it is subsequently requested.

In addition, in compliance with section 42 of the *Health Information Act*, if the dentist is disclosing to anyone other than another custodian, the police or the Minister of Justice and Attorney General, or to the patient, the dentist must inform the recipient of the purpose of the disclosure and the authority under the *Health Information Act* they are using to allow the disclosure.

Disclosure logs are critical when information is lost, manipulated in an unauthorized manner, when a recipient needs to be notified of a correction, or in the event of a privacy breach. Disclosure logs are needed to support accountability in the management of individually identifiable health information.

6.4 Consent

QuickPoint:

A dentist can obtain the consent of the individual to disclose health information, but it must be written, explicit and include all the prescribed elements.

As explained in previous sections, dentists do not need the consent of the individual to collect, use or disclose their health information for authorized purposes or in accordance with provisions permitting disclosure without consent. There may be infrequent situations where it may be necessary to use or disclose health information for reasons and in circumstances that do not meet these criteria. In such

cases, the dentist must obtain explicit and written consent of the patient or other patient's authorized representative.

A valid consent under the *Health Information Act* must contain the following elements:

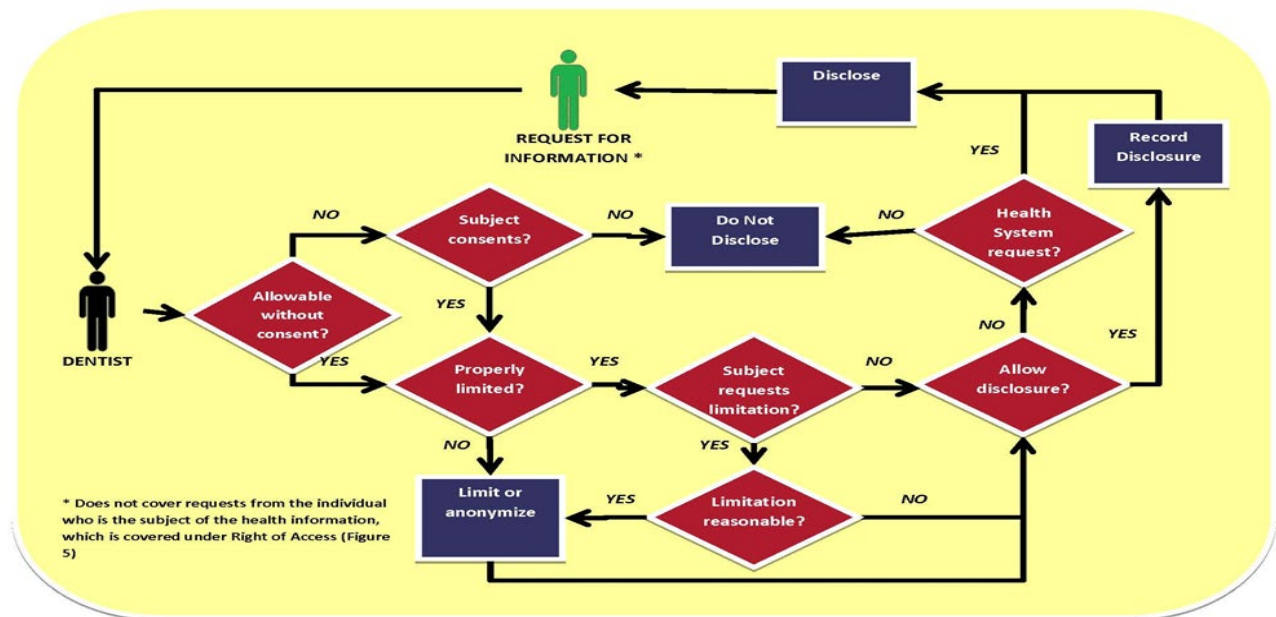
1. An authorization from the individual or authorized representative;
2. The purpose for collection, use or disclosure;
3. The users or recipients of the personal information;
4. An acknowledgement that the individual providing the consent understands the risks of consenting or not consenting;
5. The effective date and, if any, the expiry date of the consent;
6. A statement that the consent may be revoked by the individual at any time.

Consents are by nature voluntary, so not only can the patient and individual refuse to consent, they can withdraw a consent they've already given. If this occurs, the dentist must cease to collect, use, and disclose the information for business purposes. The dentist should attempt to seek alternatives where they can still seek provide health services without the health information. [Appendix 1](#) is a model form for obtaining a valid consent under the *Health Information Act*.

6.5 Disclosure Summary

The decision flow diagram below (Figure 3) provides a summary of various considerations a dentist might need to review to respond to a request from outside their practice or organization for the health information they hold as a custodian. Note that this does not cover access requests from individuals who are the subjects of the health information.

Figure 3: Disclosure Process Flow



7. Giving Individuals Access to Their Own Health Information

7.1 The Right of Access

QuickPoint:

Patients have a right of access to their own health information which has been enshrined in the Health Information Act.

A fundamental principle of privacy and access legislation is that individuals have a right to access to their own personal information, including health information under the *Health Information Act*. Patients may request information contained in their health record, for any reason including for the purposes of a dispute with a dentist. This right includes access to information held by Alberta Electronic Health Record. It is all the more important, therefore, that the access process be designed from the outset to be open, consistent, and compliant with *Health Information Act*.

7.2 Exceptions to the Right of Access

QuickPoint:

Health Information Act identifies a limited number of mandatory and discretionary exceptions to an individual's right of access. If no exceptions apply, the information must be released.

In certain situations, dentist may not or cannot provide access to the complete record of health information it holds about an individual. These situations are limited to a specific number of mandatory and discretionary exceptions listed in the *Health Information Act*.

Under the *Health Information Act*, only the individual the information is about has the right of access to the health information. This does not include family members or others, unless the person is an authorized representative of the individual in accordance with criteria set out in the legislation.

EXCEPTIONS TO AN INDIVIDUAL'S RIGHT OF ACCESS TO THEIR OWN HEALTH INFORMATION (*Health Information Act Section 11*)

Section 11 of the *Health Information Act* includes mandatory and discretionary exceptions to an individual's right to access their own health information, including:

Mandatory:

- information is about another person, unless the applicant provided it;
- reveals procedures or results of a formal investigation of a dentist or other health care providers; or
- prohibited by another act.

Discretionary:

- likely to result in immediate or grave harm to patients or others, or threaten public safety;
- will reveal the identity of an information source if it was provided in confidence for reasonable purposes;
- reveals advice or deliberations of a health region or Alberta Health and Wellness in consultation with the dentist; or
- prejudices the results of an audit or standardized test .

QuickPoint:

Dentists should review the complete list of exceptions in section 11 of the *Health Information Act*.

If a file or document contains information that is not to be released, you must “sever” or take out information so that the rest of the file or document can be released. For instance, if a portion of a record also relates not just to the individual making the request, but is intertwined with the health information of another individual, consider whether you must sever parts of the information prior to its release.

7.3 Request Process for Access to Health Information

QuickPoint:

Do not use the formal process under legislation if the information requested clearly does not require review to release. If it does, you must follow the formal process prescribed by the Health Information Act.

Dentists give patients information about themselves routinely as an integral part of providing health services. Sometimes patients may even ask to access basic additional health information about themselves the dentist may have on file (e.g., previous prescriptions, contact information). These requests can be handled as informal, routine releases so long as there is clearly no information in the record that will need to be withheld and the information can be accessed easily.

In all other cases, where there appears to be third party information in the records requested or other exceptions to access may apply, the request should be treated as a formal access request under the *Health Information Act*. Formal requests should be made in writing and forwarded to the dental practice’s Privacy Officer.

Time limits for responding to access requests are provided in legislation. The *Health Information Act* requires that the dentist respond to all right of access requests within 30 calendar days – if you do not, your response will by default be regarded as a refusal. Although there are provisions for extensions of time limits, these provisions are specific in nature and include criteria that must be met by the custodian (e.g., the request is so voluminous that extended time is needed to facilitate request processing.)

As a first step, verify that the requester or “applicant” is who they say they are or establish that the necessary authorization is in place. Next, the dentist will need to find and review thoroughly and accurately all information relevant to the applicant’s request, so you should work with the applicant to clarify the scope and nature of the information requested if it is unclear.

Provide a response to the applicant that indicates clearly where information has been severed along with the legislative exception that applies. You must also instruct the individual on the avenues available to challenge the decision. Encourage the applicant to first bring their concern to your organization’s Privacy Officer. If this is unsuccessful, the applicant can make a formal request for review to the Information and Privacy Commissioner of Alberta.

Individuals may be charged a fee for access to information in accordance with the applicable legislation. Specific maximum rates and fees are outlined in the *Health Information Act* Regulation (see [Appendix 2](#)). The individual must be given an estimate of the fee in advance and the final charge must represent actual costs incurred.

7.4 Requests to Correct or Amend Health Information

QuickPoint:

Correct or amend factual inaccuracies in a record; do not correct professional opinions or records created by others.

Dentists have a duty under the applicable legislation to collect, use, and disclose health information that is as accurate and complete as reasonably possible. Individuals have a right to request correction of health information. Under the *Health Information Act*, correction and amendment rights also apply to information held in the Alberta Netcare.

As with routine requests for access, routine requests from individuals to correct or amend contact information or registration information about themselves (e.g., change of name or address) should be handled informally.

Formal requests to correct or amend health information must be in writing and can only be submitted by the individual who is the subject of the information or their authorized representative. All formal requests must be accompanied by appropriate documentation to support the request and must be processed within the 30-day time period specified in the *Health Information Act*.

Any information that is factually correct should not be changed or amended. In addition, dentists should not amend either their own or their colleagues’ professional opinions, or records (such as a prescription) that were created by another health professional. If amendments are to be made, do not delete the original information, but simply mark it by crossing out the incorrect entry and entering the correct information nearby.

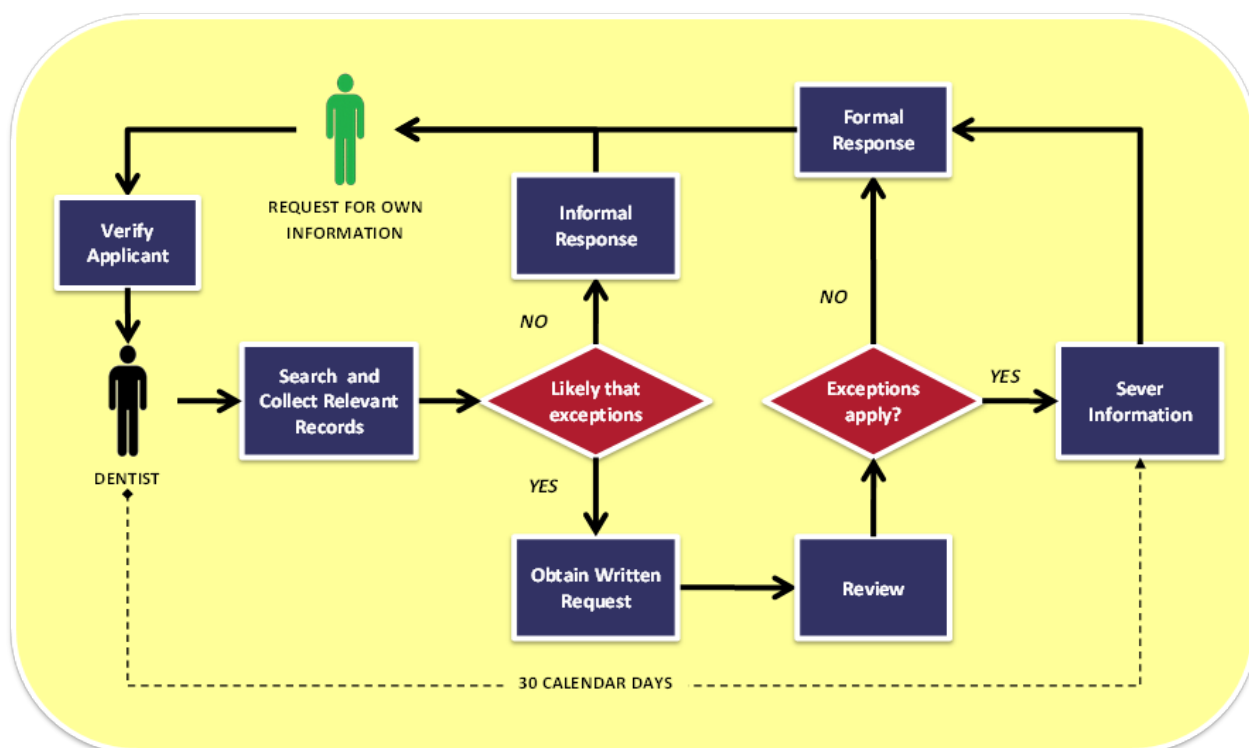
Under the *Health Information Act*, if a correction or amendment is refused, the applicant can either request a review by the Information and Privacy Commissioner or submit a statement of disagreement that must be attached to the relevant records. Third parties who have received the information up to a year previously must be given a copy of the statement of disagreement.

7.5 Right of Access Summary

The diagram below (Figure 4) summarizes the decisions and steps needed to properly process a right of access request under the *Health Information Act*.

Figure 4

Right of Access Request Process Flow



8. Securing Health Information

8.1 The Need for Information Security

QuickPoint:

Because health information is so sensitive, the Health Information Act requires dentists to institute and maintain a comprehensive information security program for protecting the confidentiality and integrity of health information in their custody and control.

Health information ranks very high in sensitivity and can result in serious repercussions to the individual whom the information is about if the information is breached. The *Health Information Act* therefore sets out extensive criteria and standards for custodians to protect health information in their custody and control. Dentists must implement administrative, technical, and physical safeguards including:

1. Identifying and mitigating threats and risks of unauthorized use, disclosure, modification, or loss of health information, including electronic formats;
2. Completing and submitting Privacy Impact Assessments for proposed new systems, policies, or practices affecting health information management;
3. Ensuring protection of health information stored or disclosed outside of Alberta; and
4. Developing secure information disposal practices; and
5. Development of information security policies.

8.2 Service Provider Agreements

A dentist that outsources or contracts with an outside agency for health services or information management services must ensure that the service provider's practices are compliant with the *Health Information Act* or other privacy legislation. You may be the contracted service provider or may be responsible for overseeing dental services as an affiliate of another custodian or for a non-custodian organization. In either case, the service provider should have in place policies and processes that meet relevant privacy and security standards. Both parties are obligated to meet these standards in their service agreements.

The *Health Information Act* also includes specific requirements for agreements entered into with information managers. Dentists are obligated to comply with the requirements relating to information manager agreements in the *Health Information Act* and Associated regulations.

The Alberta Dental Association and College *Code of Ethics*, Article B2 also speaks to a dentist's obligations with respect to entering contracts with an organization or party.

8.3 Privacy Breach Responses

QuickPoint:

Regulations are pending for mandatory breach reporting to the Office of the Information and Privacy Commissioner of Alberta

Your response to a privacy breach is as important as the measures you have in place to prevent one. Here are some general steps to follow in responding to a privacy breach:

1. Confirm the breach or violation and the level of gravity or potential for harm.

2. Take all necessary steps to prevent further breach of the information, including retrieval of breached records from any unauthorized recipients.
3. Report the information security incident immediately to the Privacy Officer, who should direct the response.
4. Investigate thoroughly the nature and cause of the breach and develop measures to prevent them in the future.
5. Decide whether the subjects of the breach should be notified.
6. Regulations are pending for mandatory breach reporting to the Office of the Information and Privacy Commissioner of Alberta

Resource information:

The Alberta Dental Association and College has developed a series of video modules on the Health Information Act and its requirements. The videos will assist custodians (dentists) and affiliates (staff or service providers) to understand both the intent of the Act and its requirements in greater detail. Providing training related to the Health Information Act for affiliates is a requirement. Video module 2 and 3 cover the above sections.

9. Electronic Health Records Systems

9.1 Electronic Health Records for Dentists

QuickPoint:

Electronic Health Records may make entering, storing and retrieving patient information faster and more secure.

More and more health information in dental practices is being managed through the use of Electronic Health Records or EHRs. These systems can make entering, sorting and retrieving patient information faster and more secure. Electronic Health Records can help dentists in shared practices provide better, safer care because vital health information is accessed quickly and efficiently.

If and when a dental office makes the transition from paper to electronic health records, there are changes which require careful consideration. The unique issues and threats to security and privacy inherent in the use of electronic records must be addressed. For the dentist and staff, there will be changes to both the ability to manage patient information, and in the design of clinical processes.

There will also be new and/or changing responsibilities for the use, disclosure and security of the health record. Not only will the office undergo process changes, but dentists and their staff will require technical and procedural training and will have to adjust to their new roles within the office. The integrity of the health information in the record and the clinical work supported by the records must not be compromised during this transition.

As with all patient files and records, Electronic Health Records systems must be secured from unauthorized access, loss or modification by following measures outlined in [Part 8, Securing Health Information](#).

9.2 Alberta's Electronic Health Record: Alberta Netcare

QuickPoint:

Dentists have been designated authorized custodians. Alberta Netcare, the portal for accessing the Alberta Electronic Health Record, to provide optimal care for their patients is available to dentists by meeting certain requirements.

Whether a dentist uses paper records or Electronic Health Records, the use of the *Alberta Electronic Health Record*, known as *Alberta Netcare* shows great potential for improving the delivery of health care for patients in Alberta. *Alberta Netcare* is the secure vehicle through which patient health information from a variety of health care providers is shared and accessed electronically, by independent and hospital based health service providers like dentists, physicians, nurses and pharmacists. The *Alberta Netcare* Portal is a data collection centre for a number of registries and systems such as laboratories, diagnostic imaging facilities, hospitals and clinics. Alberta Health and Wellness is the *Netcare* designated *information manager*.

Alberta Netcare will help dentists monitor their patient's interaction with other parts of the health care system. *Alberta Netcare* access will also be highly beneficial to dentists and dental specialists who require access to medication profiles, laboratory data and tests required to manage patients with complex medical conditions or for the provision of treatment requiring sedation or general anaesthesia.

Patients' full health or medical record will still be held on paper or electronically in their dentist's office but records in *Alberta Netcare* may contain key health information such as:

- personal demographic information
- prescriptions with or without medication history
- known allergies and intolerances
- immunizations
- medical history

- surgical history
- lab test results
- diagnostic images and related reports
- consultation reports
- other medical reports

9.3 How Can Dentists Get Access to Alberta Netcare?

QuickPoint:

To access Alberta Netcare, a dentist must meet extensive privacy and security standards to achieve “authorized custodian” status.

Privacy and security are of major concern to the individuals administering *Alberta Netcare*. Only custodians who meet the standards of “authorized custodians” in the *Health Information Act Alberta Health Record Regulation* will be given access privileges to *Alberta Netcare*. A multi-disciplinary data stewardship committee establishes rules with respect to access, use, disclosure and retention of health information in *Alberta Netcare* as set out in an *Information Exchange Protocol* (IEP).

Dentists, as authorized custodians who want to have access to *Alberta Netcare* will need to complete:

- A *Privacy Impact Assessment* (PIA) of your practice and system privacy and security, which will be submitted to the Office of the Information and Privacy Commissioner of Alberta; and
- An *Organizational Readiness Assessment* (ORA) for submission to Alberta Health and Wellness.

Once you become an *authorized custodian* you will need to enter into an *Information Manager Agreement* with Alberta Health and Wellness that will:

- describe how the data will be used (prohibiting further uses or disclosures);
- identify who will be authorized to use or receive the data;
- exclude uses or further disclosures of the data other than as authorized by the agreement or as required by law;
- mandate the custodian to provide appropriate safeguards to prevent non-authorized use or disclosure of the data;
- ensure that any affiliates, including information managers, agree to the same restrictions and conditions that apply to the recipient.

At this point you will then be able to access and use information in *Alberta Netcare* in very specific circumstances:

- To provide a health service
- To determine or verify a person’s eligibility to receive a health service; or

- To carry out any purpose set out as an authorized use under *Health Information Act*.

As with all health information systems, although you may be able to access many other records in *Alberta Netcare*, you must only access health information of your own patients. Checking the *Netcare* records of friends, family or others not under your care is a serious and potentially harmful practice that can lead to grave professional and legal consequences for the user. Be aware that *Alberta NetCare* keeps and monitors a detailed audit log of your access events on the system.

9.4 Role of Health Professional Bodies

QuickPoint:

The Alberta Dental Association and College maintains Standard of Practice: Privacy and Management of Patient Health Information to support their members' compliance with the Health Information Act and Alberta Netcare. In particular, this Standard of Practice indicates specific requirements for the use of computerized or electronic information system, which must ensure that the system has reasonable safeguards to protect the confidentiality and security of the information.

The *Health Information Act Electronic Health Record Regulation* defines the role of the Alberta Dental Association and College in supporting the operation of *Alberta Netcare*.

For dentists, the Alberta Dental Association and College will do the following:

- Maintain this *Standard of Practice* outlining their member's obligations to implement information management policies, procedures and safeguards to manage and protect electronic health records in line with the *Health Information Act*; and
- In future, may direct dentists as to what "prescribed health information" they are to make accessible via *Alberta Netcare*.

The Alberta Dental Association and College will comply with the regulations to support the process that allows dentists and dental specialists to access *Alberta Netcare*.

9.5 Additional Resources for Alberta Netcare

For additional information regarding *Alberta Netcare*, consult the following resources:

- Alberta Netcare website: www.albertanetcare.ca
- Alberta Netcare General Inquiries: 780.427.5073
- Alberta Netcare Electronic Health Records Helpdesk: 780.412.6778 or toll-free 1.877.931.16

Resource information:

The Alberta Dental Association and College has developed a series of video modules on the Health Information Act and its requirements. The videos will assist custodians (dentists) and affiliates (staff or service providers) to understand both the intent of the Act and its requirements in greater detail. Providing training related to the Health Information Act for affiliates is a requirement. Video module 4 provides an introduction to Alberta Netcare.

Please Note

At the time this video was created dentists were not authorized custodians under the Act. Dentists have now been designated as authorized custodian and can now access Alberta Netcare by meeting the requirements.

10. Resources and templates associated with this Guide

1. Video Modules – Health Information Act (Alberta)
 - Module 1 covers an introduction to the Health Information Act and the Key concepts
 - Module 2 reviews Privacy Rules and obligations for dentists and their affiliates regarding disclosure and methods to share, manage and gather patient health information
 - Module 3 reviews standards and requirements for developing and implementing a privacy program in your office
 - Module 4 addresses systems for handling and dissemination of private patient health information and the availability of healthcare data source like Alberta Netcare
2. Health Information Act (Alberta)
3. Health Information Act Health Information Regulation
4. Health Information Act Alberta Electronic Health Record Regulation
5. Health Information Act Designation Regulation
6. Alberta Dental Association and College Standard of Practice: Privacy and Management of Patient Health Information
7. Alberta Dental Association and College Standard of Practice: Patient Records
8. Alberta Dental Association and College Standard of Practice: Informed Consent

11. Appendices

Appendix 1: Form for Authorized Consent under the *Health Information Act*

Appendix 2: Fees for Processing Right of Access Requests under the **Health Information Act**

Appendix 3: Sample Notification for Collection of Health Information

11.1 Appendix 1: Form for Authorized Consent under the *Health Information Act*
[Expressed Written Consent]

Consent for the Disclosure of Health Information

I, _____, consent to the release of
(Name)

(Identify nature of personal information)

to _____
(Identify individual/organization to whom information is released)

for the purpose of _____

(Indicate why information is being disclosed)

◆ I acknowledge that I have been made aware of the reasons for the disclosure of the above information, and the risks and benefits associated with consenting or not consenting to its release.

◆ I understand that I make revoke my consent at any time, by providing a signed, written statement to my [Clinic].

Signature: _____ Date: _____

Print Name: _____ Valid Until: _____

11.2 Appendix 2: Fees for Processing Right of Access Requests under the Health Information Act

The following fees are the maximum amounts that can be charged in compliance with the *Health Information Act* Fee Schedules (*Health Information Regulation*, ss. 10-13, and Schedule). **Any items not listed must be provided at actual costs incurred.**

Basic Fee (payable at time of request)	\$25.00
Photocopies, hard copy laser print and computer print outs	\$0.25 per page
USB/Flash Drive	Actual cost
Computer tapes	\$55.00 per tape
Photographs (colour or black and white from negative)	
(a) 4" x 5"	\$10.00
(b) 5" x 7"	\$13.00
(c) 8" x 10"	\$19.00
(d) 11" x 14"	\$26.00
(e) 18" x 20"	\$32.00
Radiology film	\$5.00 each
Supervising applicant's examination of original records	\$6.75 per ¼ hour
Severing time to determine whether a record requires severing, and to review and to identify the parts of the record to be severed	
(a) technician's time	\$6.75 per ¼ hr to 3 hrs

(b) health services provider time	\$45 per ¼ hr to 3 hrs
Producing a record from an electronic record:	
(a) computer processing	actual costs
(b) computer report generation	\$10 per ¼ hour
Other direct costs:	
(a) charges to retrieve records or to return contracted fee or average past records, or both, from another location costs	contracted fee or average past costs
(b) courier charges or delivery charges, or both, to send copies to applicant other than by mail or fax	actual costs

11.3 Appendix 3: Sample Notification for Collection of Health Information

Notification poster

NOTE: Wording from this sample poster may also be used in leaflets or added to patient registration forms.

Your health information at
our dental practice

What you need to know . . .

Your health information is protected under the Health Information Act of Alberta (HIA).

We collect your health information for purposes authorized by section 20 of the HIA:

- providing treatment and care,
- verifying your eligibility for health services,
- conducting investigations or reviews,
- conducting research following ethics review,
- providing health services provider education,
- carrying out internal management, including obtaining and processing payment; or
- as expressly authorized by law in Alberta or Canada.

Consent to disclose

Except in special family or emergency circumstances or where required or authorized by law in Alberta or Canada, **we ask for your consent** before we disclose your health information to anyone not responsible for providing your treatment and care.

For more information, please ask at reception or call the practice Privacy Officer at:

[practice must provide business title, address and business phone number of an affiliate who can answer questions about the collection]