



## College of Homeopaths of Ontario

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## STANDARDS AND GUIDELINES

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|--------------------------|---------------------------------------------|------------------|
| <b>TITLE:</b>            | LEAVING A PRACTICE – STANDARD               | <b>Doc #:</b> 11 |
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*Note to Readers: In the event of any inconsistency between this document and the legislation that affects homeopathic practice, the legislation governs.*

*College publications contain practice parameters and standards which should be considered by all Ontario homeopaths in the care of their patients and in the practice of the profession. College publications are developed in consultation with the profession and describe current professional expectations. It is important to note that these College publications may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.*

### POLICY

When leaving a practice, Registrants of the College of Homeopaths of Ontario (“the “CHO” or “the College”) are expected to ensure appropriate continuance of patient care and proper stewardship of patient records.

### INTENT

The intent of this standard is to provide guidance to Registrants on their obligations when leaving, selling or closing a practice.

### DESCRIPTION OF STANDARD

#### A. Key Considerations When Leaving a Practice

1. Determine a closing date or the date you are leaving the practice.
2. Notify the appropriate parties:
  - 2.1 Patients
    - 2.1.1 Ensure patients are prepared for your departure by providing each patient with treatment options, e.g. seeing a colleague within the same practice or another practice, arranging treatment with another health care professional, or discharging the patient with a home program.
    - 2.1.2 Visit the Information and Privacy Commission website to find out what your obligations are for notifying current and past patients regarding access to their records from the Health Information Custodian (HIC)<sup>1</sup> or agent of the HIC.<sup>2,3,4,5</sup>

<sup>1</sup> A more detailed definition of the Health Information Custodian (HIC) as outlined in the *Personal Health Information Privacy Act, 2004* has been provided at the end of this standard.

<sup>2</sup> A Guide to the Personal Health Information Protection Act Information and Privacy Commissioner/Ontario Ann Cavoukian, Ph.D. Commissioner Commissioner December 2004 December 2004 <https://www.ipc.on.ca/wp-content/uploads/Resources/hguide-e.pdf>



- 2.2 Employer(s) (including partners, associates and facility operators)
  - 2.2.1 Inform the employer that your name and registration must not be used for billing purposes after you have left the practice.
  - 2.2.2 Discuss plans for follow-up care for patients who will need to continue treatment.
  - 2.2.3 Discuss how records will be retained and/or accessed after the end date of your employment.
- 2.3 Colleagues
  - 2.3.1 Discuss patients that require ongoing care with the care providers who will be assuming care.
  - 2.3.2 Ensure that patient records are current and include recommended next steps for care.
  - 2.3.3 Contact referral sources, if applicable.
- 2.4 College
  - 2.4.1 Notify the College in writing within 30 days of changing your employment or when you stop practising.
  - 2.4.2 Ensure that your liability insurance meets College requirements.
- 3. If you are the Health Information Custodian (HIC) arrange for storage of the health records if the practice is closing permanently.
  - 3.1 Ensure that confidentiality will be maintained when third party storage (agent of the HIC) is used.
  - 3.2 Arrange for the records to be stored for the entire retention period.
  - 3.3 Advise the patient of the arrangements that have been made for storage and access to the records and respect the patient's wishes if they want their record transferred to another provider.

## B. Selling the Practice

When selling the practice the Registrant shall:

1. Give patients as much notice as possible that the practice is being sold;
2. Facilitate the transfer of care to the new practitioner or respect the patient's choice if they wish to choose a new practitioner not associated with the clinic; and
3. Advise the patient of the arrangements that have been made for storage and access to the records and respect the patient's wishes if they want their record transferred to another provider.

## C. Closing of a Practice

When a decision has been made to close the practice due to retirement or moving out of the area the Registrant shall:

1. Give patients as much notice as possible that the practice is closing;
2. Assist patients with the transfer of their care to another provider; and

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<sup>3</sup> How to Avoid Abandoned Records: Guidelines on the Treatment of Personal Health Information, in the Event of a Change in Practice, Information and Privacy Commissioner, May 2007 [https://www.ipc.on.ca/wp-content/uploads/Resources/up-abandonedrec\\_gdlines.pdf](https://www.ipc.on.ca/wp-content/uploads/Resources/up-abandonedrec_gdlines.pdf)

<sup>4</sup> Checklist for Health Information Custodians in the Event of a Planned or Unforeseen Change in Practice, Information and Privacy Commissioner, May 2007 <https://www.ipc.on.ca/wp-content/uploads/2016/08/Checklist.pdf>

<sup>5</sup> Information and Privacy Commissioner Resources [www.ipc.on.ca](http://www.ipc.on.ca)



3. Advise them that the homeopath is required to keep their records for 10 years, or as noted above if the patient is less than 18 years old, and provide information on how they may obtain a copy of the record in the future.

#### **D. Terminating an Employment Agreement**

A Registrant who terminates a relationship with a facility should determine who is required to store the health records. If the facility is maintaining the original records, a copy of the records should be kept by the Registrant or an agreement reached allowing the Registrant access to the records as needed. If the Registrant is keeping the patient records, the facility should be provided with information on the Registrant's new practice location so that patients who wish to access their records can do so. In addition, the Registrant may write to the patients advising them who to contact to obtain a copy of their records.

Note: It is professional misconduct to abandon a patient. For this reason, the College believes that the departing Registrant has a responsibility to contact patients and notify them that he/she is leaving the practice. This may be done in person, by telephone or by letter. The purpose of this contact is to assist the Registrant with the transfer of care to another provider, if necessary, and to advise them of how they can access their health record in the future.

#### **E. Ending a Practice as the Result of the Death of a Registrant**

In the course of their practice management, Registrants are encouraged to develop a contingency plan for their patients and practice in the eventuality of their death. The Registrant should detail what is, statutorily required and, in the best interest of the patients in writing, to the best of their ability, and to provide this information to their estate/business manager, any professional partners, and family.

The Executor of the Estate is responsible for contacting the College of Homeopaths of Ontario, and advising them as to the location of patient files. The estate may elect to store the records and respond to patient requests for information, or may choose to transfer the records to another individual who will act as custodian. See the College's Guideline on Record Keeping and Privacy of Information for more information on estate management of health care professional records.

#### **F. Maintenance and Access to Patient Records**

The overriding principle when a homeopath leaves a practice is patient care. Registrants have a legal obligation with respect to informing patients that they are leaving or moving their practice. For more information on please refer to the Guideline on Record Keeping and Privacy of Information.

If employed, homeopaths also have a contractual obligation to their employer.

A prudent Registrant will clarify with the employer **before commencing employment** what the arrangements will be on departure. Records must be retained for a period of at least 10 years following the date of the last entry in the chart. In the case of a minor, records are retained for at least 10 years following the patient's 18th birthday, regardless of the date of the last entry in the file. Access may be required to answer questions that patients, their insurers and the College might have later respecting homeopath treatment rendered.



This access can be achieved in one of two ways:

1. The departing Registrant can take a copy of her or his patient records with her or him; or
2. The departing Registrant can leave the records behind on the understanding that they will be maintained for the required period of time and that she or he can have access to them if required.

Under either system, it would be appropriate for the departing homeopath to keep a list of patient names and file numbers.

### **G. Informing patients about one's departure**

If there will be no continued homeopathic care with a new homeopath or the transfer of care to another practice location, then patients should be so informed by the Registrant before the office closes. If the clinic will continue to operate, then it would be a normal professional courtesy, and in the interests of patient choice, for patients to be told about the departure. Except in the case where the clinic is closing entirely, this notification is a professional courtesy, not professional obligation.

If a Registrant has a contractual obligation to refrain from informing her or his patients of her or his departure, she or he may be obliged to honour this obligation and should seek legal counsel. That is a private matter between the Registrant and her or his employer and the College will rarely intervene in those cases. The Registrant can assume that the remaining practitioners at the clinic will maintain their professional obligations in dealing with the Registrant's former patients. S/he may want to write a letter to the remaining practitioners stating something to the effect that since s/he has not been permitted to contact patients directly, s/he trusts that "Homeopath X" will continue to care for the needs of the former patients. The homeopath should retain a copy of this letter for his/her files.

An ideal situation is for the Registrant and employer to agree upon a letter that will go to the patients of the homeopath prior to the departure.

When a departing Registrant informs her or his patients of the move, s/he must do so professionally. For example, a factual statement by letter, or at the last visit by the patient before the Registrant departs, or in response to an inquiry by a patient, would be acceptable in a manner consistent with any reasonable non-competition commitments.

Alternatively, the Registrant may choose to place a simple advertisement in the local newspaper informing the public of her or his new place of practice. Consult the College's Standard of Practice of Advertising prior to placing the advertisement.

### **H. Registrant Responsibilities**

If an investigator is formally appointed under section 75 of the Health Professions Procedural Code to examine a matter, the remaining homeopath must co-operate. Section 76 of the Health Professions Procedural Code requires the remaining Registrant to provide access to his or her premises and records. In addition, the investigator could summon any records under the Public Inquiries Act or obtain a search warrant.



## DEFINITIONS

For the purpose of this standard the following definitions apply:

### Homeopath

“Homeopath” means a registrant of the College of Homeopaths of Ontario.

### Registrant

A Registrant is a member of the College of Homeopaths of Ontario.

### Health Information Custodian (HIC or Custodian)

A HIC as laid out in the *Personal Health Information Protection Act, 2004* as of May 7, 2018.

3 (1) In this Act,

“health information custodian”, subject to subsections (3) to (11), means a person or organization described in one of the following paragraphs who has custody or control of personal health information as a result of or in connection with performing the person’s or organization’s powers or duties or the work described in the paragraph, if any:

1. A health care practitioner or a person who operates a group practice of health care practitioners.
2. A service provider within the meaning of the *Home Care and Community Services Act, 1994* who provides a community service to which that Act applies.
3. REPEALED: 2016, c. 30, s. 43 (1).
4. A person who operates one of the following facilities, programs or services:
  - i. A hospital within the meaning of the *Public Hospitals Act*, a private hospital within the meaning of the *Private Hospitals Act*, a psychiatric facility within the meaning of the *Mental Health Act* or an independent health facility within the meaning of the *Independent Health Facilities Act*.  
**Note: On a day to be named by proclamation of the Lieutenant Governor, subparagraph 4 i of subsection 3 (1) of the Act is amended by striking out “a private hospital within the meaning of the *Private Hospitals Act*”. (See: 2017, c. 25, Sched. 9, s. 109 (1))**  
**Note: On a day to be named by proclamation of the Lieutenant Governor, subparagraph 4 i of subsection 3 (1) of the Act is amended by striking out “an independent health facility within the meaning of the *Independent Health Facilities Act*” at the end and substituting “a community health facility within the meaning of the *Oversight of Health Facilities and Devices Act, 2017*”. (See: 2017, c. 25, Sched. 9, s. 109 (2))**
  - ii. A long-term care home within the meaning of the *Long-Term Care Homes Act, 2007*, a placement coordinator described in subsection 40 (1) of that Act, or a care home within the meaning of the *Residential Tenancies Act, 2006*.
  - ii.1 a retirement home within the meaning of the *Retirement Homes Act, 2010*.
  - iii. A pharmacy within the meaning of Part VI of the *Drug and Pharmacies Regulation Act*.



- iv. A laboratory or a specimen collection centre as defined in section 5 of the *Laboratory and Specimen Collection Centre Licensing Act*.
  - v. An ambulance service within the meaning of the *Ambulance Act*.
  - vi. A home for special care within the meaning of the *Homes for Special Care Act*.
  - vii. A centre, program or service for community health or mental health whose primary purpose is the provision of health care.
5. An evaluator within the meaning of the *Health Care Consent Act, 1996* or an assessor within the meaning of the *Substitute Decisions Act, 1992*.
  6. A medical officer of health of a board of health within the meaning of the *Health Protection and Promotion Act*.
  7. The Minister, together with the Ministry of the Minister if the context so requires.
  8. Any other person prescribed as a health information custodian if the person has custody or control of personal health information as a result of or in connection with performing prescribed powers, duties or work or any prescribed class of such persons. 2004, c. 3, Sched. A, s. 3 (1); 2006, c. 17, s. 253; 2007, c. 8, s. 224 (2-4); 2007, c. 10, Sched. H, s. 1; 2009, c. 33, Sched. 18, s. 25 (1); 2010, c. 11, s. 128; 2016, c. 30, s. 43 (1).
- (2) REPEALED: 2009, c. 33, Sched. 18, s. 25 (2).

### Exceptions

(3) Except as is prescribed, a person described in any of the following paragraphs is not a health information custodian in respect of personal health information that the person collects, uses or discloses while performing the person's powers or duties or the work described in the paragraph, if any:

1. A person described in paragraph 1, 2 or 5 of the definition of "health information custodian" in subsection (1) who is an agent of a health information custodian.
2. A person who is authorized to act for or on behalf of a person that is not a health information custodian, if the scope of duties of the authorized person does not include the provision of health care.
3. The Minister when acting on behalf of an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act* that is not a health information custodian. 2004, c. 3, Sched. A, s. 3 (3).

### Other exceptions

(4) A health information custodian does not include a person described in one of the following paragraphs who has custody or control of personal health information as a result of or in connection with performing the work described in the paragraph:



1. An aboriginal healer who provides traditional healing services to aboriginal persons or members of an aboriginal community.
2. An aboriginal midwife who provides traditional midwifery services to aboriginal persons or members of an aboriginal community.
3. A person who treats another person solely by prayer or spiritual means in accordance with the tenets of the religion of the person giving the treatment. 2004, c. 3, Sched. A, s. 3 (4).

### Multiple facilities

(5) Subject to subsection (6) or an order of the Minister under subsection (8), a health information custodian that operates more than one facility described in one of the subparagraphs of paragraph 4 of the definition of “health information custodian” in subsection (1) shall be deemed to be a separate custodian with respect to personal health information of which it has custody or control as a result of or in connection with operating each of the facilities that it operates. 2004, c. 3, Sched. A, s. 3 (5).

### Single custodian

(6) Despite subsection (5), the following persons shall be deemed to be a single health information custodian with respect to all the functions described in the applicable paragraph, if any:

1. A person who operates a hospital within the meaning of the *Public Hospitals Act* and any of the facilities, programs or services described in paragraph 4 of the definition of “health information custodian” in subsection (1).
2. REPEALED: 2016, c. 30, s. 43 (2).
3. Health information custodians or facilities that are prescribed. 2004, c. 3, Sched. A, s. 3 (6); 2007, c. 8, s. 224 (5); 2016, c. 30, s. 43 (2).

### Application to act as one custodian

(7) A health information custodian that operates more than one facility described in one of the subparagraphs of paragraph 4 of the definition of “health information custodian” in subsection (1) or two or more health information custodians may apply to the Minister, in a form approved by the Minister, for an order described in subsection (8). 2004, c. 3, Sched. A, s. 3 (7).

### Minister’s order

(8) Upon receiving an application described in subsection (7), the Minister may make an order permitting all or some of the applicants to act as a single health information custodian on behalf of those facilities, powers, duties or work that the Minister specifies, subject to the terms that the Minister considers appropriate and specifies in the order, if the Minister is of the opinion that it is appropriate to make the order in the circumstances, having regard to,

- (a) the public interest;
- (b) the ability of the applicants to provide individuals with reasonable access to their personal health information;



- (c) the ability of the applicants to comply with the requirements of this Act; and
- (d) whether permitting the applicants to act as a single health information custodian is necessary to enable them to effectively provide integrated health care. 2004, c. 3, Sched. A, s. 3 (8).

### Scope of order

(9) In an order made under subsection (8), the Minister may order that any class of health information custodians that the Minister considers to be situated similarly to the applicants is permitted to act as a single health information custodian, subject to the terms that the Minister considers appropriate and specifies in the order, if the Minister is of the opinion that it is appropriate to so order, having regard to,

- (a) the public interest;
- (b) the ability of the custodians that are subject to the order made under this subsection to provide individuals with reasonable access to their personal health information;
- (c) the ability of the custodians that are subject to the order made under this subsection to comply with the requirements of this Act; and
- (d) whether permitting the custodians that are subject to the order made under this subsection to act as a single health information custodian is necessary to enable them to effectively provide integrated health care. 2004, c. 3, Sched. A, s. 3 (9).

### No hearing required

(10) The Minister is not required to hold a hearing or to afford to any person an opportunity for a hearing before making an order under subsection (8). 2004, c. 3, Sched. A, s. 3 (10).

### Duration

(11) Subject to subsection (12), a health information custodian does not cease to be a health information custodian with respect to a record of personal health information until complete custody and control of the record, where applicable, passes to another person who is legally authorized to hold the record. 2004, c. 3, Sched. A, s. 3 (11).

### Death of custodian

(12) If a health information custodian dies, the following person shall be deemed to be the health information custodian with respect to records of personal health information held by the deceased custodian until custody and control of the records, where applicable, passes to another person who is legally authorized to hold the records:

1. The estate trustee of the deceased custodian.
2. The person who has assumed responsibility for the administration of the deceased custodian's estate, if the estate does not have an estate trustee. 2004, c. 3, Sched. A, s. 3 (12).



## LEGISLATIVE CONTEXT

Regulated Health Professions Act, 1991

*Homeopathy Act, 2007, [Ontario Regulation 315/12 Professional Misconduct](#):*

35. If the member intends to close his or her practice, failing to take reasonable steps to give appropriate notice of the intended closure to each patient for whom the member has primary responsibility or failing to,
- i. ensure that each patient's records are transferred to the member's successor or to another member, if the patient so request, or
  - ii. ensure that each patient's records are retained or disposed of in a secure manner.

## RELATED DOCUMENTS

#1 Guideline on Record Keeping and Privacy of Information

## SOURCE

College of Denturists of Ontario

College of Dental Hygienists of Ontario

College of Massage Therapists of Ontario

College of Physiotherapists of Ontario