

Version No. 001
Health Records Regulations 2023

S.R. No.
EXPOSURE DRAFT

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1 Objectives

The objectives of these Regulations are—

- (a) to prescribe the maximum fees that may be charged by an organisation when providing individuals with access to health information under Part 5 of the **Health Records Act 2001** and HPP 6 and HPP 11 of that Act; and
- (b) to prescribe the maximum fees that may be charged by a nominated health service provider when performing functions set out in section 42 of the **Health Records Act 2001**; and
- (c) to ensure the fees referred to in paragraphs (a) and (b) are prescribed in a manner that—
 - (i) ensures that any fee charged does not unfairly preclude an individual from requesting access to health information; and
 - (ii) allows reasonable cost recovery for organisations; and
 - (iii) recognises current practice regarding the transfer of health information between health service providers at the request of an individual for the purpose of continuity of care; and
- (d) to prescribe the circumstances in which an organisation may collect health information

about an individual under HPP 1.1(i) of the
Health Records Act 2001.

2 Authorising provision

These Regulations are made under section 100 of the **Health Records Act 2001.**

3 Commencement

These Regulations come into operation on 19 August 2023

4 Revocation

The Health Records Regulations 2012¹ are **revoked.**

5 Definition

In these Regulations—

the Act means the **Health Records Act 2001.**

6 Maximum fee for granting an individual access to health information

For the purposes of section 32 of the Act, the prescribed maximum fee for providing access to health information in a manner specified in Column 2 of Schedule 1 is the fee set out in the corresponding entry of Column 3 of Schedule 1.

7 Maximum fee for nominated health service provider performing functions

For the purposes of section 42(3) of the Act, the prescribed maximum fee for performing the functions set out in section 42(1) of the Act is the reasonable cost incurred by the nominated health service provider in performing those functions, not exceeding the lesser of—

- (a) 4.7 fee units per quarter hour or part of a quarter hour spent performing those functions; or
- (b) 23.6 fee units.

8 Maximum fee for making health information available to another health service provider

For the purposes of HPP 11.1, the prescribed maximum fee for making health information available to a health service provider in a manner specified in Column 1 of Schedule 2 is the fee set out in the corresponding entry of Column 3 of Schedule 2.

9 Prescribed circumstances for collection of health information

- (1) For the purposes of HPP 1.1(i), the prescribed circumstances for the collection of health information by an organisation are—
 - (a) the collection is by a health service provider; and
 - (b) the information is about an individual (whether living or deceased); and
 - (c) the information is collected from—
 - (i) a person to whom a health service is being provided; or
 - (ii) an authorised representative, an immediate family member, or the primary carer of a person to whom a health service is being provided, if the person is incapable of providing the information; and
 - (d) the information does not contain any more identifying information about the individual referred to in paragraph (b) than is reasonably necessary to ensure that health

services are provided safely and effectively to the person referred to in paragraph (c)(i) or (c)(ii).

- (2) For the purposes of subsection (1), a person is incapable of providing the information if the person is incapable by reason of age, injury, disease, senility, illness, disability, physical impairment or mental disorder.
- (3) Information collected in accordance with subregulation (1) is exempt health information for the purposes of HPP 1.5.

- (4) In this regulation—

authorised representative has the same meaning as in section 85(6) of the Act;

primary carer means any person who is primarily responsible for providing support or care to a person.

10 GST payable

- (1) A maximum fee prescribed by these Regulations may be increased by an amount not exceeding the amount of GST payable on the supply to which the fee relates.
- (2) In this regulation—

GST has the same meaning as it has in the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth except that it includes notional GST of the kind for which payment may be made under Part 3 of the **National Taxation Reform (Consequential Provisions) Act 2000** by a person that is a State entity within the meaning of that Act.

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Schedule 1—Maximum fee for granting an individual access to health information

Regulation 6

<i>Item No.</i>	<i>Manner of access under Part 5 of the Act</i>	<i>Maximum fee</i>
1	Inspecting health information or printout of health information stored in electronic form, with opportunity to take notes of contents	The total of the following amounts— (a) 1·2 fee units per half hour (to be calculated in increments of quarter hours or parts thereof) in respect of supervision time of inspection; and (b) the organisation's reasonable costs incurred in assessing and collating the health information, not exceeding 2·5 fee units; and (c) if it is necessary to use equipment that is not in the organisation's possession to inspect the health information, the organisation's reasonable costs incurred in obtaining the equipment; and (d) if the health information is contained in a document not stored at the organisation's usual place of business, 1·2 fee units.
2	Viewing health information, with no explanation of contents	The total of the following amounts— (a) 1·2 fee units per half hour (to be calculated in increments of quarter hours or parts thereof) in respect of supervision time of inspection; and (b) the organisation's reasonable costs incurred in assessing and collating the health information, not exceeding 2·5 fee units; and

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<i>Item No.</i>	<i>Manner of access under Part 5 of the Act</i>	<i>Maximum fee</i>
		<ul style="list-style-type: none"> (c) if it is necessary to use equipment that is not in the organisation's possession to inspect the health information, the organisation's reasonable costs incurred in obtaining the equipment; and (d) if the health information is contained in a document not stored at the organisation's usual place of business, 1·2 fee units.
<p>Note: Section 32(4) of the Act provides that a person who gives an explanation of health information under section 29(1)(d) of the Act may charge a fee for the service that does not exceed the amount of the person's usual fee for a consultation of a comparable duration.</p>		
3	Receiving a copy of health information	<p>The total of the following amounts—</p> <ul style="list-style-type: none"> (a) if a copy is in the form of black and white A4 pages, 20 cents per page; and (b) if a copy is in a form other than a black and white A4 page, the organisation's reasonable costs incurred in providing the copy; and (c) the organisation's reasonable costs incurred in assessing and collating the health information, not exceeding 2·5 fee units; and (d) if the health information is contained in a document not stored at the organisation's usual place of business, 1·2 fee units; and (e) if the person requests the copies to be posted, the actual postage costs incurred by the organisation.

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<i>Item No.</i>	<i>Manner of access under Part 5 of the Act</i>	<i>Maximum fee</i>
4	Receiving an accurate summary of health information	<p>The total of the following amounts—</p> <p>(a) if the organisation is a health service provider and an accurate summary does not exist before the request is made, an amount (not exceeding 9.4 fee units) that is calculated by reference to the time taken to prepare the accurate summary—</p> <p style="padding-left: 20px;">(i) based on the usual fee of the health service provider for a consultation of a comparable duration; or</p> <p style="padding-left: 20px;">(ii) at the rate of 2.9 fee units per quarter hour (or part of a quarter hour)—</p> <p style="padding-left: 40px;">whichever is the greater; and</p> <p>(b) if the organisation is not a health service provider and an accurate summary does not exist before the request is made, the organisation's reasonable costs incurred calculated by reference to the time taken to prepare the accurate summary, not exceeding the lesser of—</p> <p style="padding-left: 20px;">(i) 2.9 fee units per quarter hour (or part of a quarter hour); or</p> <p style="padding-left: 20px;">(ii) 9.4 fee units; and</p> <p>(c) if the health information is contained in a document not stored at the organisation's usual place of business, 1.2 fee units; and</p> <p>(d) if the person requests the summary to be posted, the actual postage costs incurred by the organisation.</p>

Schedule 2—Maximum fee for making health information available to another health service provider

Regulation 8

<i>Item No.</i>	<i>Manner of access under HPP 11.1</i>	<i>Maximum fee</i>
1	Provision by a health service provider of a copy of health information to another health service provider	If the copy — (a) consists of at least 20 black and white A4 pages, 20 cents per page; or (b) is in a form other than a black and white A4 page, the health service provider's reasonable costs incurred in providing the copy.
2	Provision by a health service provider of an accurate summary of health information to another health service provider	If an accurate summary does not exist before the request is made, and it takes the health service provider at least a quarter of an hour to prepare an accurate summary, an amount (not exceeding 9.4 fee units) that is calculated by reference to the time taken to prepare the accurate summary— (a) at the rate of 2.9 fee units per quarter hour (or part of a quarter hour); or (b) based on the usual fee of the health service provider for a consultation of a comparable duration— whichever is the greater.

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Endnotes

¹ Reg. 4: S.R. No. 44/2012 as extended in operation by S.R. No. 65/2022.

Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2023 is \$15.90. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.