

DISCLOSURE AFTER DEATH OF A PATIENT

(Including how to deal with Requests to access Deceased Patients' Record)

Introduction

For deceased persons, applications to access their medical records are made under sections of the 1990 Access to Health Records Act.

These sections provide the right of access to the health records of deceased individuals for their personal representative and others having a claim under the estate of the deceased.

Where the patient has died, the patient's personal representative or any person who may have a claim arising out of the patient's death may make an application.

Access shall not be given (even to the personal representative) to any part of the record which, in the GP's opinion, would disclose information which is not relevant to any claim which may arise out of the patient's death.

The effect of this is that those requesting a deceased person's records will be asked to confirm the nature of the claim which they say they may have arising out of the person's death.

If the person requesting the records was not the deceased's spouse or parent (where the deceased was unmarried) and if they were not a dependant of the deceased, it is unlikely that they will have a claim arising out of the death.

Where a deceased patient has indicated that they would not wish disclosure of their records then this should be the case after death, unless there is an overriding public interest in disclosing.

After a person has died, their GP health records will be passed to *Primary Care Support England (England) / Practitioner Services (Scotland) / NHS Wales Shared Services Partnership (Wales)*, so they can be stored. To access their GP records, apply to the records manager in the relevant local area.

GP records are generally retained for 10 years after the patient's death before they are destroyed. For hospital records, the record holder is the records manager at the hospital the person attended. Fees may apply for accessing these records.

The requestor should be asked to complete the form **Appendix 1**, below, to enable the GP to consider the request and respond accordingly.

Applications from the Police

Duty of confidentiality extends to deceased patients, but where the police are working on behalf of the coroner's office, they are entitled to obtain copies of medical information that is relevant and necessary to their investigations.

Otherwise, the consent of executor of the estate or the personal representative would be needed before such information could be released, unless you believe the situation justifies a breach of confidentiality (i.e. it is in the public interest).

Bear in mind that the BMA document *Access to Health Records Guidance for health professionals in the United Kingdom* states that information in the records should not be disclosed if:

- It identifies a third party without that person's consent unless that person is a health professional who has cared for the patient; or
- In the opinion of the relevant health professional, it is likely to cause serious harm to a third party's physical or mental health; or
- The patient gave it in the past on the understanding that it would be kept confidential. No information at all can be revealed if the patient requested non-disclosure.

Appendix 1

Application for Access to Medical Records of a Deceased Patient Access to Health Records Act 1990

Details of the Deceased Patient

Deceased Patient's Surname	NHS Number
Forename(s)	Last Address
Date of Birth	
Date Of Death	

Details of the Person Making the Request

Surname	
Forename(s)	
Address	
Telephone Number	
Relationship to Deceased Patient	

It is the Practice's intention to be as helpful as we can with this request. However, The Doctor does have an ongoing duty of confidentiality to the deceased patient and will consider this request in light of that duty. To ensure these considerations are fully informed please provide the following information. The Doctor will then consider the request in light of prevailing legislation and General Medical Council guidelines.

1. Please specify what information, in particular, you are requesting

2. Please briefly explain the purpose for your request

3. Please indicate if you are the executor of the deceased Patient's estate

(Please delete one of the following , as appropriate)

I can confirm I am the executor of the deceased patients' estate.

I am not the executor of the deceased Patient's estate.

(if you are not the executor please also complete box 4)

4 . If you are not the executor please provide the name and contact details for the executor. So that they may be contacted regarding this request.

Name:

Address:

Telephone Number:

Please sign and date this form – before returning it to one of the Reception Team

The GP will then respond to your quests. This is unlikely to take less than 14 working days.

Signed

Date