

TEMPLATE

Successor Custodian of Medical Records Agreement

[Note to Draft: This template Successor Custodian of Medical Records Agreement (“Agreement”) is for use by Alberta physicians to satisfy their obligations under the College of Physicians and Surgeons of Alberta’s Standard of Practice, [Patient Record Retention](#), which requires physicians to designate a successor custodian of their medical records in the event they are unable to continue as custodian.

Physicians should be aware that the designated successor custodian must meet the definition of “custodian” under the Health Information Act and Health Information Regulation (see s. 35(1)(q) Health Information Act; CPSA Messenger, “[Are You up to Standard? Patient Record Retention](#)” (February 10, 2016)).

Physicians transferring records to another physician or record storage company after they close or leave practice are also required to have a separate Information Management Agreement relating to the management of patient charts (CPSA Standard of Practice, [Closing or Leaving a Medical Practice](#)). Information Management Agreements should address issues required by that Standard as well as: the location of the records; name of successor custodian of the records; access to the records by patients and the transferring physician; retention and destruction of the records; confidentiality and security; and notice to the transferring physician if records are moved or a new successor custodian is appointed by the original successor custodian.

This template is made available with the understanding that it remains the physician’s responsibility to adapt the Agreement to his/her particular situation. Physicians may wish to seek advice from their own personal legal counsel in preparing an Agreement.]

This Agreement is dated as of the ____ day of _____, 20____ (the “Effective Date”).

Between:

Dr. _____ of _____ (“Custodian”)

– and –

_____ of _____ (“Successor Custodian”)

- A. WHEREAS this *Successor Custodian of Medical Records Agreement* (“**Agreement**”) applies to all patient records under the custody and control of the Custodian (“**Records**”);
- B. WHEREAS the Custodian is a physician duly licensed to practice medicine in the Province of Alberta by the College of Physicians and Surgeons of Alberta (“**CPSA**”) and is custodian of the Records pursuant to Alberta’s *Health Information Act* (“**HIA**”);
- C. WHEREAS the Custodian is required by the CPSA to designate a successor custodian to ensure the retention and accessibility of the Records in the event the Custodian is unable to continue as custodian of the Records;

- D. WHEREAS the CPSA requires that a designated successor custodian be a “custodian” as defined by the *HIA* and its Regulations, even if the Records are eventually stored with a record management company; and
- E. WHEREAS the Successor Custodian meets the definition of “custodian” under the *HIA* and its Regulations;

The parties therefore agree as follows:

- 1. The Successor Custodian will assume the duties and powers of custodian of the Records under the *HIA* in the event that the Custodian is unable to continue as custodian of the Records.
- 2. When the Custodian is no longer able to act as custodian of the Records, the Custodian or the Custodian’s legal representative will provide the Successor Custodian with a minimum of 30 days’ notice prior to transferring custodianship of the Records to the Successor Custodian. The notice will specify the date on which custodianship will transfer.
- 3. The Successor Custodian may agree to waive the notice requirement upon request from the Custodian or the Custodian’s legal representative.
- 4. The parties will co-operate as reasonably necessary to facilitate the transfer of Records under this Agreement.
- 5. Following transfer of the Records, the Successor Custodian will ensure that the Custodian or the Custodian’s legal representative is provided with reasonable access to Records required to respond to any complaint, action or other proceeding brought against the Custodian.
- 6. If at any time between the Effective Date and the date of transfer of the Records the Successor Custodian wishes to terminate this Agreement, the Successor Custodian will provide to the Custodian 30 days’ notice of the desire to terminate the Agreement. The Agreement will terminate 30 days after the date on which the notice is received.
- 7. If the Custodian wishes to terminate this Agreement, the Custodian will provide notice to the Successor Custodian. The Agreement will terminate immediately upon receipt of the notice by the Successor Custodian.
- 8. Any notice required under this Agreement must be in writing and is sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by e-mail. Notice is deemed to have been received on the day it is delivered or transmitted.
- 9. This Agreement is governed by and is to be construed in accordance with the laws of Alberta and the laws of Canada applicable in Alberta.

This Agreement is comes into effect on the Effective Date.

This Agreement has been duly executed by the parties.

By: _____
Name of Custodian Signature

By: _____
Name of Successor Custodian Signature